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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 25th August, 1959 :-

Issue No.	No. and date	Issued by	Subject
125	S.O. 1849, dated 22nd August, 1959.	Ministry of Information and Broadcasting.	Approval of the film specified therein.
126	S.O. 1850, dated 21st August, 1959.	Central Board of Revenue.	Amendment in the Indian Income-tax Rules, 1922.
127	S.O. 1892, dated 25th August, 1959.	Ministry of Steel, Mines and Fuel.	Fixation of date on which the duty of excise shall be levied on coal and coke.
	S.O. 1893, dated 25th August, 1959.	Do. . .	Fixation of price at which coal/coke overloaded at any weigh-bridge may be sold by colliery owners.
	S.O. 1894, dated 25th August, 1959.	Do. . .	Fixation of price at which coal/coke may be sold by colliery owners.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 25th August 1959

S.O. 1897.—Whereas the election of Shri Shiva Nand Ramaul, as a member of the House of the People from Mahasu Constituency of the Union Territory of Himachal Pradesh, has been called in question by an election petition presented

by Shri Avinash Chander Sehgal, Managing Editor, The Weekly Peace, 18, Western Court, New Delhi;

And whereas the Election Commission has caused a copy of the petition to be published in the official gazette and has served a copy thereof by post on each of the respondents under sub-section (1) of section 86 of the Representation of the People Act, 1951 (43 of 1951);

Now, therefore, in exercise of the powers conferred by sections 86 and 88 of the said Act, the Election Commission hereby appoints Shri Tej Singh Vaidya, District Judge, Mahasu, Sirmur and Bilaspur Districts, as the member of the Election Tribunal for the trial of the said petition and Simla as the place where the trial of the petition shall be held

[No. 82/9/59/15087.]

By Order,

C. B. LAL, Under Secy.

New Delhi, the 28th August 1959

S.O. 1898.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Kerala, hereby nominates Shri P. I. Jacob, I.A.S., Secretary, Labour Department, Government of Kerala, as the Chief Electoral Officer for that State with effect from the forenoon of 21st August, 1959 vice Shri P. Narayanaswami.

[No. 154/5/59.]

By Order,

S. C. ROY, Secy.

MINISTRY OF LAW

(Department of Legal Affairs)

New Delhi, the 25th August 1959

S.O. 1899.—In exercise of the powers conferred by clause (1) article 299 of the Constitution, the President hereby directs that any of the officers specified below may sign and execute on his behalf any application, certificate or other document required or permitted by the provisions of the Loan Agreement No. 233 IN, entered into between India and the International Bank for Reconstruction and Development on the 15th July, 1959, namely:—

- (i) The Chief Accounts Officer of the India Supply Mission in the United States of America;
- (ii) The Accounts Officer of the India Supply Mission in the United States of America;
- (iii) The First Secretary to the Indian Embassy in the United States of America;
- (iv) The Chief Accounting Officer to the High Commissioner of India, London;
- (v) The Deputy Chief Accounting Officer to the High Commissioner of India, London.
- (vi) The Joint Director, Finance, Railway Board, New Delhi; and
- (vii) The Deputy Director, Finance, Railway Board, New Delhi

[No. F.17(5)/59-J.]

R. S. GAE, Jt. Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 29th August 1959

S. O. 1900—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendments in the Schedule to the notification of the Government of India in the Ministry of Home Affairs No. S.R.O. 628, dated the 28th February, 1957, namely:—

In the said Schedule—

(1) in Part I, after the existing entries, the following shall be inserted namely:—

1	2	3	4
<i>Hindi Teaching Organisation</i>			
All posts	Joint Secretary, Ministry of Home Affairs.	Joint Secretary, Ministry of Home Affairs. Deputy Secretary, Ministry of Home Affairs.	All. (i) to (iii)"

(2) In Part II, after the existing entries, the following shall be inserted, namely:—

1	2	3	4	5
<i>Hindi Teaching Organisation</i>				
All posts	Deputy Secretary, Ministry of Home Affairs.	Deputy Secretary, Ministry of Home Affairs.	All	Joint Secretary, Ministry of Home Affairs."

(3) in Part III, after the existing entries, the following shall be inserted, namely:—

1	2	3	4	5
<i>Hindi Teaching Organisation.</i>				
All posts	Deputy Secretary, Ministry of Home Affairs.	Deputy Secretary, Ministry of Home Affairs.	All	Joint Secretary, Ministry of Home Affairs."

[No. F.15/17/59-VIG].

T. C. A. RAMANUJACHARI, Dy. Secy

MINISTRY OF EXTERNAL AFFAIRS

CORRIGENDA

New Delhi, the 27th August 1959

THE FRENCH ESTABLISHMENTS APPLICATION OF LAWS (AMENDMENTS) ORDER, 1959

S.O. 1901.—In the Notification dated June 11, 1959 published in the Gazette of India Extraordinary in Part II Section 3—Sub-section (ii), the following corrections shall be made, namely:—

- (i) Clause 1 of paragraph (1) for "the French Establishment (Amendment) Order, 1959", read "the French Establishments Application of Laws (Amendments) Order, 1959".

(ii) Column 4 of paragraph (2)—for “1958”, read “1948”.

[No. F.36-3/Eur.W/59.]

A. DAS GUPTA, Under Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 18th August 1959

S.O. 1902.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control & Appeal) Rules, 1957, the President hereby rescinds the Notification No. S.R.O. 614, dated the 28th February, 1957 of the Partition Secretariat.

[No. F. 55(2)-Admn/57.]

P. GANGULEE, Dy. Secy.

(Department of Economic Affairs.)

New Delhi, the 28th August, 1959

S.O. 1903.—Statement of the Affairs of the Reserve Bank of India, as on the 21st August 1959.

BANKING DEPARTMENT

LIABILITIES		ASSETS	
	Rs.		Rs.
Capital paid up	5,00,00,000	Notes	23,67,14,000
Reserve Fund	80,00,00,000	Rupree Coin	2,07,000
National Agricultural Credit (Long-term Operations) Fund	30,00,00,000	Subsidiary Coin	4,17,000
National Agricultural Credit (Stabilisation) Fund	4,00,00,000	Bills Purchased and Discounted :—	
Deposits :—		(a) Internal
(a) Government		(b) External
(1) Central Government	58,11,09,000	(c) Government Treasury Bills	5,13,50,000
(2) Other Governments	61,88,96,000	Balances held abroad	15,55,47,000
(b) Banks	78,94,26,000	Loans and Advances to Governments	17,97,69,000
(c) Others	177,47,47,000	Other Loans and Advances†	83,52,25,000
Bills Payable	23,39,28,000	Investments	378,84,72,000
Other Liabilities	14,92,57,000	Other Assets	8,96,62,000
Rupees	533,73,63,000	Rupees	533,73,63,000

Dated the 26th day of August 1959.

* Includes Cash & Short term Securities.

† The item 'Other Loans and Advances' includes Rs. 2,84,50,000/- advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

K. G. AMBEGAOKAR,

Dy. Governor.

RESERVE BANK OF INDIA

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 21st day of August 1959.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	23,67,14,000		A. Gold Coin and Bullion :—		
Notes in circulation	1663,80,72,000		(a) Held in India	117,76,03,000	
Total Notes issued		1687,47,86,000	(b) Held outside India	
			Foreign Securities	163,00,89,000	
			TOTAL OF A		280,76,92,000
			B. Rupee Coin		135,52,44,000
			Government of India Rupees Securities		1271,18,50,000
			Internal Bills of Exchange and other commercial paper
TOTAL LIABILITIES		1687,47,86,000	TOTAL ASSETS		1687,47,86,000

Dated the 26th day of August 1959.

K. G. AMBEGAOKAR
Deputy Governor.
[No. F.3(2)-BC/59.]

A. BAKSI, Jr. Secy.

(Department of Revenue)

New Delhi, the 5th September 1959

CUSTOMS

S.O. 1904.—In exercise of the powers conferred by section 6 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby appoints the undermentioned officers of the Collectorate of Central Excise, Poona, to be Officers of Customs within their respective jurisdictions and to exercise the powers conferred and to perform the duties imposed on such officers by the said Act, namely:—

1. The Collector of Central Excise.
2. All Assistant Collectors of Central Excise.
3. All Superintendents of Central Excise.
4. All Deputy Superintendents of Central Excise.
5. All Inspectors of Central Excise including those employed in Preventive Intelligence.
6. All sub-Inspectors of Central Excise.
7. All Sepoys of Central Excise.

[No. 137.]

S.O. 1905.—In exercise of the powers conferred by section 188 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby empowers the Collector of Central Excise, Poona to hear appeals from the decisions or orders passed by officers of Customs subordinate to him under the provisions of the said Act and directs that any person aggrieved by any decision or order passed by any of the said Officers of Customs shall appeal therefrom to the Collector of Central Excise, Poona:

Provided that if between the date of the decision or order passed and the date of the hearing of the appeal, the officer who gave the decision or passed the order has been promoted to be the Collector of Central Excise, Poona, the appeal shall lie to the Central Board of Revenue.

[No. 139.]

M. C. DAS, Dy. Secy.

(Department of Revenue)

CORRIGENDAM

ESTATE DUTY

New Delhi, the 1st September 1959

S.O. 1906.—In the Ministry of Finance (Department of Revenue) notification S.O. 1819 dated the 17th August, 1959 appearing on page 2010 of the Gazette of India dated the 22nd August, 1959, Part II, Section 3(ii), the following correction shall be made in the Appendix:—

Against S. No.	For	Read
10.	"Shri Nagarajan, W.P.A.R.W".	"Shri Nagarajan, W.P.A.R."

[No. 32/F. No. 5/151/58-ED.]

S.O. 1907.—In the Ministry of Finance (Department of Revenue) notification S.O. 1818 dated the 17th August, 1959 appearing on page 2009 of the Gazette of India dated the 22nd August, 1959 Part II, Section 3(ii), the following correction shall be made in the Appendix:—

Against S.No.	For	Road
13.	"Shri Mavalankar, R.W."	"Shri Mavlankar, R.W."

[No. 33/F. No. 5/50/59-ED.]

D. SUBRAMANIAN, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 25th August 1959

S.O. 1908.—In exercise of the powers conferred by sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue hereby makes the following further amendments to its notification S.O. 680 No. 35-Income-tax dated 22nd April, 1958, namely:—

In the Schedule annexed to the said notification under Sub-head "XIII-Punjab, Jammu and Kashmir and Himachal Pradesh":—

Amritsar Range:

(a) for the existing entry "4. Special Circle, Amritsar" substitute the following:—

"4. Special Circle, Amritsar" and "1st and 2nd Additional Special Circles, Amritsar";

(b) the existing items

(i) 11. Survey Circle, Srinagar;

(ii) 13. Project Circle, Jammu;

(iii) 14. Udhampur

shall be deleted; and

(e) the existing items "12, 15, 16 and 17" shall be renumbered as "11, 12, 13 and 14".

Patiala Range:

after the existing item "1. Patiala" the following item shall be added, namely:—

"2. Companies Circle, Patiala" and the existing items "2, 3, 4, 5, 6, 7, 8" shall be renumbered as "3, 4, 5, 6, 7, 8, 9"

Rohtak Range:

the existing item "5" shall be deleted.

These amendments shall be deemed to have come into force from the 20th July, 1959.

Explanatory Note

NOTE.—These amendments have become necessary on account of the reorganisation of the Appellate Ranges.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 91(F. No. 50/30/59-IT).]

New Delhi, the 27th August 1959

S.O. 1909.—In exercise of the powers conferred by sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (11 of 1922), the Central Board of Revenue

hereby makes the following further amendments to its notification S.O. 880 No. 35-
Income-tax, dated the 22nd April 1958, namely:—

For the existing entries in columns 1 and 2 of the Schedule under sub-head
“Kerala and Coimbatore” the following entries shall be substituted, namely:—

Coimbatore Range:

1. Coimbatore Circle.
2. Calicut.
3. Special Circle, Coimbatore.
4. E.P.T. Circle, Coimbatore and Erode.
5. E.D.-cum-I.T. Circle, Coimbatore.
6. Erode Circle.
7. Special Survey Circle, Coimbatore. (In respect of persons who have their principal place of business in or reside within the jurisdiction of the I.T. Circles mentioned above).
8. Palghat Circle.
9. Cannanore Circle.
10. Special Survey Circle, Ernakulam. (In respect of persons who have their principal place of business in or reside within the jurisdiction of the Income-tax Circle, Palghat and Cannanore).

Ernakulam Range:

1. Alwaye Circle.
2. Kottayam Circle.
3. Alleppey Circle.
4. Ernakulam Circle.
5. Mattanchery Circle.
6. Qullon Circle.
7. Trivandrum Circle.
8. Salary Circle, Trivandrum.
9. Special Circle, Trivandrum.
10. Trichur Circle.
11. Special Survey Circle, Ernakulam. (In respect of persons who have their principal place of business in or reside within the jurisdiction of the Income-tax circles mentioned above).
12. Estate Duty-cum-Income-tax Circle, Ernakulam.

These amendments shall take effect from the 1st September 1959.

Explanatory Note

NOTE.—The amendments have become necessary on account of the reorganisation of the Appellate Ranges in the charge of the Commissioner of Income-tax, Coimbatore.

(The above note does not form a part of the notification but is intended to be merely clarificatory).

[No. 92 (F. No. 50/28/59-IT).]

D. V. JUNNARKAR, Under Secy.

ESTATE DUTY

New Delhi, the 1st September 1959

S.O. 1910.—In exercise of the powers conferred by section 4 of the Estate Duty Act, 1953 (34 of 1953), read with rule 6 of the Estate Duty Rules, 1953, the Central Board of Revenue hereby transfers, with effect from the 15th June, 1959, the cases relating to the estates of the deceased persons who immediately before their death were being or would have been, assessed to income-tax had they derived any taxable income in any Income-tax Circle, the headquarters of which lies within the revenue districts of Indore, Dhar, Dewas, Nimar (Khargaon), Ujjain,

Rajgarh, Shajapur, Ratlam, Mandsaur, Jhabua, Gird, Morena, Bhind, Datia, Shivpuri, Guna, Sehore, Raisan, Bhilsa, Nimar (Khandwa), Hoshangabad, Betul, Sagar and Damoh from the Assistant Controller, Estate Duty-cum-Income-tax Circle, Nagpur, to the Assistant Controller, Estate Duty-cum-Income-tax Circle, Indore.

[No. 31/F. No. 21/38/58-ED.]

D. SUBRAMANIAN, Secy.

CUSTOMS

New Delhi, the 5th September 1959

S.O. 1911.—In exercise of the powers conferred by section 9 of the Sea Customs Act, 1878 (8 of 1878), the Central Board of Revenue hereby makes the following rules, namely:—

RULES

1. The Officers of the Collectorate of Central Excise, Poona, who have been appointed Officers of Customs by the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 137, dated the 5th September, 1959, are required to prevent smuggling and enforce prohibitions or restrictions imposed or deemed to have been imposed under section 19 of the Sea Customs Act, 1878 (8 of 1878), and are authorised to exercise within their respective jurisdictions all the powers conferred by Chapter XVII of the said Act on Officers of Customs duly employed for the prevention of smuggling.

2. The following Officers of the Collectorate of Central Excise, Poona, who have been appointed Officers of Customs by the aforesaid notification shall perform the duties of a Customs Collector within their respective jurisdictions, namely:—

1. The Collector of Central Excise.
2. All Assistant Collectors of Central Excise.

[No. 138.]

M. C. DAS, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

ORDER

New Delhi, the 29th August 1959

S.O. 1912/IDRA/5.—In exercise of the powers conferred by section 5 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), read with rule 8 of the Central Advisory Council (Procedural) Rules, 1952, the Central Government hereby appoints Mr. Kenneth E. Tosh to be a member of the Central Advisory Council of Industries, in place of Mr. J. I. Jamieson, who has resigned, and makes the following amendment in the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 216, dated the 20th January, 1959, namely:—

In the said Order, under the heading "To represent the interest of owners of industrial undertakings" in scheduled industries after entry No. 13A relating to Mr. G. N. Noel-Tod, the following entry shall be inserted, namely:—

"13B. Mr. Kenneth E. Tosh,
M/s. Andrew Yule & Co. Ltd.,
8, Clive Row,
CALCUTTA."

[No. 1(6)IA(II)(G)/59.]

K. C. MADAPPA, Dy. Secy.

ERRATUM

In Ministry of Commerce and Industry Notification No. SMC-15(13)/59/2, dated 9th July, 1959, published in the Gazette of India Part II—Section 3(ii), dated 1st August, 1959 as S.O. 1688, the following correction is to be made:—

Page 1875, 3rd line from bottom—

for "1st August, 1959"

read "9th July, 1959"

DEPARTMENT OF ATOMIC ENERGY

Bombay, the 14th August 1959

S.O. 1913.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby directs that the following amendments shall be made in the Notification of the Government of India in this Department No. S.R.O. 637 dated 28th February, 1957, namely:—

- (i) For "1956" in line 4 of the Notification "1957" shall be substituted;
- (ii) for the Schedule to the aforesaid Notification the Schedule to this order shall be substituted.

SCHEDULE

Part I—General Central Service Class II

Description of Post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 13)	
		Authority	Penalties
I	2	3	
DEPARTMENT OF ATOMIC ENERGY			
(i) Posts in the Secretariat of the Department .	Joint Secretary	Joint Secretary	All
(ii) Posts in the Atomic Energy Establishment, Trombay.	Director, Atomic Energy Establishment, Trombay.	Director, Atomic Energy Establishment, Trombay.	All
(a) Scientific and Technical Posts.			
(b) Administrative Posts	Contoller, Atomic Energy Establishment, Trombay.	Contoller, Atomic Energy Establishment, Trombay.	All
(iii) Posts in the Atomic Minerals Division .	Director, Atomic Minerals Division	Director, Atomic Minerals Division.	All
(iv) Posts in the Architecture and Civil Engineering Division.	Chief Engineer (Civil)	Chief Engineer (Civil)	All
(v) Posts other than those specified above. .	Joint Secretary	Joint Secretary	All

Part II.—General Central Service Class III.

Description of Post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 13)		Appellate Authority
		Authority	Penalties	
1	2	3	4	5
(i) Posts in the Secretariat of the Department.	Deputy Secretary, Department of Atomic Energy.	Deputy Secretary, Department of Atomic Energy.	All	Joint Secretary, Department of Atomic Energy.
(ii) Posts in the Atomic Energy Establishment, Trombay.	Assistant Controller (Personnel), Atomic Energy Establishment, Trombay.	Assistant Controller (Personnel), Atomic Energy Establishment, Trombay.	All	Controller, Atomic Energy Establishment, Trombay.
(iii) Posts in the Atomic Minerals Division.	Administrative and Accounts Officer, Atomic Minerals Division.	Administrative and Accounts Officer, Atomic Minerals Division.	All	Director, Atomic Minerals Division.
(iv) Posts in the Architecture and Civil Engineering Division.	Personal Assistant to Chief Engineer (Civil).	Personal Assistant to Chief Engineer (Civil).	All	Chief Engineer (Civil).
(v) Posts other than those specified above.	Deputy Secretary, Department of Atomic Energy.	Deputy Secretary, Department of Atomic Energy.	All	Joint Secretary, Department of Atomic Energy.

Part III.—General Central Service Class IV

Description of Post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in rule 13)		Appellate Authority
		Authority	Penalties	
1	2	3	4	5
(i) Posts in the Secretariat of the Department.	Under Secretary, Department of Atomic Energy.	Under Secretary, Department of Atomic Energy.	All	Deputy Secretary, Department of Atomic Energy.
(ii) Posts in the Atomic Energy Establishment, Trombay.	Personnel Administration Officer, Atomic Energy Establishment, Trombay.	Personnel Administration Officer, Atomic Energy Establishment, Trombay.	All	Assistant Controller (Personnel), Atomic Energy Establishment, Trombay.
(iii) Posts in the Atomic Minerals Division.	Administrative and Accounts Officer, Atomic Minerals Division.	Administrative and Accounts Officer, Atomic Minerals Division.	All	Director, Atomic Minerals Division.
(iv) Posts in the Architecture and Civil Engineering Division.	Personal Assistant to Chief Engineer (Civil).	Personal Assistant to Chief Engineer (Civil).	All	Chief Engineer (Civil).
(v) Posts other than those specified above.	Under Secretary, Department of Atomic Energy.	Under Secretary, Department of Atomic Energy.	All	Deputy Secretary, Department of Atomic Energy.

[No. 32(3)/55-Adm. I.]

U. C. MEHTA, Under Secy.

MINISTRY OF STEEL, MINES AND FUEL

(Department of Mines and Fuel)

New Delhi, the 27th August 1959

S.O. 1914.—Whereas by the notification of the Government of India in the Department of Mines and Fuel (Ministry of Steel, Mines and Fuel) S.O. 546, dated 8th April, 1958, under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to prospect for coal in the lands in the locality specified in the Schedule appended to that notification;

And whereas the Central Government is satisfied that coal is obtainable in the whole or any part of the said lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the lands measuring 15.15 acres described in Schedule appended hereto.

The plans of the areas covered by this notification may be inspected in the office of the Collector Surguja, (MP) or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the National Coal Development Corporation Ltd., (Revenue Section) Darbhanga House, Ranchi.

Any person interested in the aforesaid lands may within 30 days of the issue of this notification, file objection to the acquisition of the whole or any part of the lands or of any rights in or over such lands to the Coal Controller, 1, Council House Street, Calcutta.

SCHEDULE

Drawing No. Rev. 30/59

showing lands to be acquired.

Sl. No.	Reserve Forest	Thana Tahsil	Tahsil No.	District	Area	Remarks
I.	Reserve forest	Baikunthpur.	60	Surguja	15.15 Acres (Approximate)	Part
Total:					15.15 Acres (Approximate)	

Area to be acquired — Reserve Forest (Part).

Boundary Description:

AB line passes through Reserve Forest.

BC line passes through Reserve Forest.

CD line passes through Reserve Forest.

DA line passing through Reserve Forest.

[No. C2-5(29)/57.]

B. ROY, Under Secy.

(Department of Mines & Fuel)

ORDER

New Delhi, the 25th August 1959

S.O. 1915.—In exercise of the powers conferred by the proviso to clause (a) of sub-section (1) of section 8 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952), the Central Government hereby exempts lignite of whatever description, raised and despatched or manufactured and despatched as the case may be, from the collieries in India, from the levy of the duty of excise referred to in the said clause.

[No. C5-7(2)/59.]

CHHEDI LAL, Dy. Secy.

(Department of Iron & Steel)*New Delhi, the 31st August 1959*

S.O. 1916/ESS.COMM/IRON AND STEEL-2(c)/AM(46).—In exercise of the powers conferred by sub-clause (c) of clause 2 of the Iron and Steel (Control) Order, 1956, the Central Government hereby directs that the following further amendments shall be made to the notification of the Government of India, in the Ministry of Steel, Mines and Fuel, No. S.R.O. 2041/ESS.COMM/IRON AND STEEL-2(c), dated the 11th June, 1957, as amended from time to time, namely:—

In the Schedule annexed to the said notification, in column 2 thereof, against 'OTHERS',

For the existing entry No. 19(ii),

Read "19(ii). The Deputy Director and the Assistant Director (P. & M. Directorate), Central Water and Power Commission (Water Wing), New Delhi." and

For the existing entry No. 29.

Read "29. All Assistant Iron and Steel Controllers, Officers of the Iron and Steel Controller at Calcutta, Bombay and Madras and the Assistant Director (Grade I) (Steel) under the administrative control of the Iron and Steel Controller, Calcutta."

[No. SC(A)-1(20)/59.]

J. S. BAIJAL, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE**(Department of Agriculture)***New Delhi, the 28th August, 1959*

S.O. 1917.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following amendment in the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.R.O. 219 dated the 11th January, 1958 namely:—

In the Annexure to the said notification under the heading 'B-sub offices, 1-non-ministerial technical', for the existing entries "Degree in Chemistry, preference will be given to those who know oil technology" under column 5 against item No. 8 the following entries shall be substituted:—

'A University Degree in Science with Chemistry as one of the subjects; or three years Diploma in Technology from a Polytechnic; (preference will be given to a science graduate with chemistry as one of the subjects over a Diploma holder from a Polytechnic).

[No. F.1-57/54-AM.]

MAHTAB SINGH, Under Secy.

(Department of Agriculture)**(Indian Council of Agricultural Research)***New Delhi, the 22nd August 1959*

S.O. 1918.—In pursuance of the provisions of Sub-Section (f) of Section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946), the Central Government hereby appoint Shri N. Subbarayan, Salem District, Madras, as a member of the Indian Central Oilseeds Committee for a term of 3 years beginning from the 1st April, 1959, on his being nominated by the State Government of Madras.

[No. 8-3/59-Com.III/II.]

AJUDHIA PRASADA, Under Secy.

MINISTRY OF TRANSPORT & COMMUNICATIONS

(Department of Transport)

(Transport Wing)

PORTS

New Delhi, the 24th August 1959

S.O. 1919.—In exercise of the powers conferred by Section 7 read with sub-section (i) of Section 13A of the Bombay Port Trust Act, 1879 (Bombay Act 6 of 1879), the Central Government hereby appoints the following persons to be members of the Board of Trustees of the Port of Bombay:—

1. Shri S. R. Kulkarni
2. Shri M. G. Kotwal

Representatives of Labour.

[No. 8.C-PG(5)/59.]

K. NARAYANAN, Dy. Secy.

(Department of Transport)

(Transport Wing)

PORTS

New Delhi, the 24th August 1959

S.O. 1920.—In exercise of the powers conferred by sub-section (3) of section 3 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby authorises Shri P. K. Patankar, Pilot, Kandla Port to pilot in and out of the port, move in the harbour and to berth and unberth ships upto 8,000 tons gross (inclusive of tankers) during day light hours and ships of upto 5,000 tons gross during hours of darkness (excepting tankers and vessels loaded with explosives).

2. In exercise of the powers conferred by sub-section (3) of section 3 of the Indian Ports Act 1908 (XV of 1908), the Central Government hereby authorises Shri C. A. Ramaseshan, Pilot, Kandla Port to pilot in and out of the Port, move in the harbour and to berth and unberth ships upto 8,000 tons gross (inclusive of tankers) during day light hours and ships of upto 5,000 tons gross during hours of darkness (excepting tankers and vessels loaded with explosives).

[No. 2-PE(84)/59.]

New Delhi, the 31st August 1959

S.O. 1921.—In exercise of the powers conferred by sub-section (3) of section 3 of the Indian Ports Act, 1908 (15 of 1908), the Central Government hereby authorises Shri P. D. Gupta, Pilot Vizagapatam Port, to pilot vessels upto 466' O" O.A. in length at the Port of Vizagapatam.

[No. 17-A-PG(41)58.]

FATEH CHAND, Under Secy.

(Department of Communications and Civil Aviation)

(Posts & Telegraphs)

New Delhi, the 24th August 1959

S.O. 1922.—In exercise of the powers conferred by clause (b) of sub-section (2) of section 21 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following further amendment to the Indian Post Office Rules, 1933, namely:—

Rule 223 of the said rules shall be omitted.

[No. 4/17/58-CF.]

B. G. DESHMUKH, Under Secy.

MINISTRY OF WORKS, HOUSING & SUPPLY

New Delhi, the 27th August 1959

S.O. 1923.—In pursuance of the provisions of Rule 45 of the Fundamental Rules, the President hereby makes the following amendments in the Supplementary Rules published with the Government of India, Finance Department letter No. 104-C.S.R., dated the 4th February, 1922, namely:

In part VIII of the said Rules, in Division, XXVI-H-The Nasik Press (Allotment) Rules, 1959, for clause (iv) of Rule 2(b)(I), the following clause shall be substituted, namely:—

“(iv) if he is a re-employed officer, pay including pensions equivalent of death-cum-retirement gratuity, if any, actually drawn by him on the 1st April, provided the Manager certifies that Officer will continue to draw that pay or a higher pay throughout the year;”

[No. 25(22)/53-S&PI.]

M. N. KALE, Under Secy.

MINISTRY OF REHABILITATION

New Delhi, the 20th August 1959

S.O. 1924.—WHEREAS the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule below in the Union territory of Delhi for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

NOW, THEREFORE, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the said evacuee properties.

THE SCHEDULE

Sl. No.	Particulars of evacuee property	Name of the town and locality in which the evacuee property is situated	Name of the evacuee
1	XV/7-30/8-18(new)	Main Bazar, Paharganj, New Delhi.	Shri Khuda Bux (Father's name not known).
2	XV/2798/1995-98	Chuna Mandi, Pahar Ganj, New Delhi.	Shri Haji Ajmeri Son of Hemzo.
3	XV/2865A/2088-89	Chuna Mandi, Pahar Ganj, New Delhi.	Shri Bala Ji, Son of Shri Karim Bux

[No. F.1(1218)-58/Comp.III/Prop-I.]

New Delhi, the 21st August 1959

S.O. 1925.—WHEREAS the Central Government, is of opinion that it is necessary to acquire the evacuee properties specified in the schedule hereto annexed in the State of Madhya Pradesh for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the displaced persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the schedule hereto annexed.

THE SCHEDULE

Sl. No.	Particulars of the evacuee property	Name of the town and locality/ Village in which the property is situated	Name of the evacuee
1	2	3	4
1	House Number 555/651	Bhartipur ward, Jabalpur.	Abdul Latif, Musmat Shavan-son of and daughter of Mulsah Sheikh Bahadur and Jamalabi and others
2	House without Number situated within House Number 31.	South Miloniganj, Jabalpur	Shamsher Khan, Ahmed Khan and Mohammed Khan sons of Abdul Latif and Musmat-bibi Daughter of Abdul Latif. and others.
3	House Number 886	Belbagh ward, Jabalpur	Mohammed Nazir and Mohammed Yusuf, both son-of Sheikh Gulab and Begum Bi and Mulayam Bi daughters of Sheikh and others.
4	House Number 2	South Belbagh ward, Jabalpur	Amir Musalman and others.
5	House Number 162	East Kariapathar ward, Jabalpur	Musmat Bismillah Bi widow of Nanhoo Khan Kaloo Hafiz and Manzoor sons of Nanhoo Khan Tara Bi and Bubboo bi daughters of Nanhoo Khan and others.
6	House Number 413 (old) 501 (New)	Bhantalaiya ward, Jabalpur	Mohammed Mustafa Khan Mohammed Murtaz Khan and others.
7	House Number 650	Sadar Bazar, Jabalpur	Musmat Sarah Begum and others.
8	House Number 806	Omti ward, Jabalpur	1. Syed Mohammed Raza. 2. Widow of Syed Mohammed Hussain. 3. Khairunbi daughter of Syed Mohammed Hussain. 4. Ahmed Hussain son of Syed Mohammed Hussain. 5. Mazhar Hussain son of Syed Mohammed Hussain. 6. Amir Hussain son of Syed Mohammed Hussain and others.

[No. F.1(1220)-58/Comp.III/Prop.I.]

New Delhi, the 25th August, 1959.

S.O. 1926.—Whereas the Central Government is of opinion that it is necessary to acquire evacuee the properties specified in the Schedule hereto annexed in the State of Uttar Pradesh for a public purpose, being purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons;

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires, the evacuee properties specified in the Schedule hereto annexed.

THE SCHEDULE

Sl No. Particulars of the evacuee property	Name of the town and locality/village in which the property is situated	Name of the evacuee
DIST. BARILLY		
1. EA11/25 26,	Shahabad Bareilly,	Sri Fasiuddin.
2. EA11/32,	Do. „	Sri Fasiuddin
3. EA11/88,	Do. „	Sri Wahid ali
4. WD20/110,	Behari pur, „	Sri Wahid Ali.
5. EBI/100,	Rabari tola, „	Sri Mauluddin.
6. EB15/184-185,	Rohili tola, „	Sri Maddan son of Wilayat.
7. EB3/134,	Rabari tola, „	Mushmmat Ahsan Begum.
8. EB15/20-26,	Rohili tola, „	Sri Irfan Ali.
9. EB11/46,	Kanker tola, „	Sri Himayat ullah.
10. EC11/19-20,	Sailane. „	Sri Mansoor Ahmad.
11. EC11/88,	Do. „	Sri Aziz Ahmad.
12. EC11/124,	Do. „	Sri Hashmat.
13. EC6/68,	K C Khan. „	Sri Tufel Ahmed.
14. ED8/223,	Bask Ahmad ali Khan. „	Sri Altaf Husain
15. ED7/93,	Do. „	Sri Baddan Son of Abdullah.
16. ED20/68,	Nai Basti. „	Sri Lalla
17. WA14/177,	Gali Nawaban, „	Sri Zamuruddin.
18. WB13/232 AB,	Phoola Darwaza „	Daughter of Mohd Shaffi.
19. WC2/63,	Malookur „	Sri Anwarul Haq.
20. WC2/64,	Do. „	Sri Anwarul Haq.
21. WC6/32,	Do. „	Sri Suria Begum
22. 804,	Cantonment „	Sri Mohd. Ibrahim
23. 515,	Do. „	Sri Abdul Rahim
24. EB11/202,	Kanker tola, „	Sri Mohmad Idris Khan.
25. CA9/23,	Sader Bazar „	Sri Fazul Rehman Khan son of Kifayat Khan.
26. CA9/24,	Do. „	Do
27. 9,	Uncha Panpur Bareilly	Sri Aziz Khan son of Mohd. Ali khan.
28. One house,	Patchganj East Faridpur, „	Sri Aqil Beg son of Shah ali Beg.
29. Do.	Faridpur Bareilly.	Sri Shamuallah Khan son of Nawabullah Khan
30. Do.	Surdhar, Bareilly.	Sri Allu son of Inayat
31. EC12/119,	Sahswan tola, „	Sri Shoukat ali.
32. EA9/27,	Shahabad „	Sri Ali Jan.
33. EA8/22,	Do. „	Sri Ahmmad Jen.
34. WA7/107, 122, 126	Ganda Nala, „	Sri Surat Ahmmad and others
35. EB7/259-60,	Gher Jaffer Khan „	Sri Atiq Khan and others.
36. EC3/34,	Soofi tola, „	Sri Shafat ullah
37. CA10/8/83,	Shahabad „	Mushmmat Bhiko.
38. WB22/106,	Domni Masjid „	Sri Sharafat Ullah
39. WC11/104-105,	Jasoli, „	Mushmmat Kaniz Fatima.
40. WD7/113-117,	Beharipur „	Sri Ahmmad Bux and others.
41. EB1/117,	Rabari tola „	Sri Rehmat Husin
42. WC10/69-70,	Jasoli, „	Sri Niazullah
43. 241-47-48-49,	Baksenia Faridpur „	Sri Nanchy Peshkar
44. WA7/141,	Ganda Nala. „	Sri Akbar ali
45. WB12/67 to 77, WB11/55-56,	Phoota Darwaza. „	Sri Azhar Husain and oth rs
46. EC7/5051,	K C Khan „	Sri Wali Mohamad
47. One house,	Tehsil Nawab ganj Bareilly	Sri Bashir son of Faqir Bux.
48. Do	Do „	Sri Khan Mohamad Khan son of Inayat Khan.
49. 382,	Do. „	Chuttan shah son of Karamal ali shah
50. One house,	Do „	Sri Nazibuddin son of Munce- ruddin
51. 637, Manzana,	Do. „	Sri Ishaq Mohmmad son of Mohmmad Ibrahim.

Sl. No.	Particulars of the Property	Name of the town and locality in which the property is situated	Name of the Evacuee
52.	One House in Sinthal	Tehsil Nawab ganj Bareilly.	Sri Mubarak Husain son of Anwar Husan.
53.	Do.	Do. „	Sri Riasat Husan son of Mohamad Jan.
54.	Do.	Do. „	Sri Mazharul Husan son of Juwad Husan.
55.	Do.	Do. „	Sri Wahid Husain.
56.	Do.	Do. „	Sri Zahid Ali son of Zakir Ali.
57.	One house in Tanda	Bahari Distt. Bareilly.	Sri Mohammad Khalil son of Zahoor Ahmmad.
58.	One house in Richa	Do. „	Sri Abdul Rashid son of Husan Bux.

DISTT. VARANASI

- | | | | |
|----|-------------------------------------|---|---|
| 1. | House of Qadir Ismail and Chingoor. | Mohalla Noorkhanpur, (Alampur) Bhadohi, Varanasi. | Qadir, Ismail and Chingoor son of Mikhdooman. |
| 2. | Parti land of Alamgir | Mohalla Pachim Taraf, Bhadohi, Varanasi. | Alamgir son of Fazal Hussain. |

[No. F. 1 (1217)- 58/Comp III/ Prop. I.]

(Office of the Chief Settlement Commissioner)

New Delhi, the 22nd August 1959

S.O. 1927.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri R. N. Khanna, as Assistant Settlement Officer for the purpose of performing the functions assigned to such Officers by or under the said Act with effect from the date he took charge of his office.

[No. 8/215/Admn/R/CSC/59.]

New Delhi, the 28th August 1959

S.O. 1928.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby confers upon Shri R. G. Kulkarni, Assistant Settlement Commissioner the powers of Settlement Commissioner for the purpose of performing the functions assigned to such officers by or under the said Act with effect from 17th August, 1959.

[No. 5/41/Comp-1/57-Admn(R).]

S.O. 1929.—In exercise of the powers conferred by Sub-Section (i) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints for the State of Punjab, Shri Shanti Lal Malhotra, as Assistant Custodian for the purpose of discharging the duties assigned to the Custodian of Evacuee Property by or under the said Act.

[No. 2(2)-Admn(Prop)/59.]

S.O. 1930.—In exercise of the powers conferred by sub-section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby confers upon Shri D. K. Kishnani, Assistant

Settlement Commissioner the powers of Settlement Commissioner for the purpose of performing the functions assigned to such officers by or under the said Act with effect from 17th August, 1959.

[No. 5/41/Comp-1/57-Admn(R).]

New Delhi, the 29th August 1959

S.O. 1931.—In exercise of the powers conferred by Clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act No. 44 of 1954, the Central Government hereby appoints Sarvashri H. R. Seth and P. S. Mathur for the time being holding the posts of Assistant Settlement Commissioner and Assistant Settlement Officer respectively in the office of Settlement Commissioner (Government Built Properties) New Delhi, as Managing Officers, for the custody, management and disposal of compensation pool.

[No. 16(5)-Admn(Prop.)/59.]

M. L. PURI,

Settlement Commissioner (Admn.) & *Ex-Officio* Under Secy.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 25th August 1959

S.O. 1932.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour No. S.R.O. 2971, dated the 4th December, 1956, published at pages 2119-20 of Part II, Section 3, of the Gazette of India, dated the 8th December, 1956, namely:—

In the Table annexed to the said notification, in column (2), against item 8 for the words "State of Uttar Pradesh" the words "States of Uttar Pradesh and Punjab and the Union Territory of Himachal Pradesh" shall be substituted.

[LR.I.1(112)/59.]

New Delhi, the 29th August 1959

S.O. 1933.—In pursuance of sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour No. S.R.O. 2972, dated the 4th December 1956, published at pages 2120-21 of Part II, Section 3 of the Gazette of India, dated the 8th December 1956, namely:—

In the Table annexed to the said notification, in column (2), against item 1 for the words "State of Uttar Pradesh", the words "States of Uttar Pradesh and Punjab and the Union Territory of Himachal Pradesh" shall be substituted.

[No. LR.I.1(112)/59.]

New Delhi, the 31st August 1959

S.O. 1934.—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby directs that in the notification of the Government of India, Ministry of Labour and Employment No. S.O. 1712, dated the 22nd July, 1959, for the words and figures "31st August 1959", the words and figures "30th September 1959" shall be substituted.

[No. LR.I.1(109)/59.]

S.O. 1935.—In pursuance of sub-section (3) of section 22 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby specifies, till the 30th September, 1959, each of the officers mentioned in column (1) of the table annexed to the notification of the Government of India, Ministry of Labour and Employment, No. S.O. 1660, dated the 21st July, 1959, as the authority to whom the employer shall send intimation of any lock-out or strike referred to in the said sub-section in the areas specified in the corresponding entry in column (2) of the said table.

[No. LR.I.1(109)/59.]

A. L. HANDA, Under Secy.

New Delhi, the 25th August, 1959

S.O. 1936.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the Lloyds Bank Limited, Madras and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT
BOMBAY

(SITTING AT MADRAS)

REFERENCE No. (CGIT) 13 OF 1959

In the matter of

Lloyds Bank Ltd., Madras.

AND

Their Workmen.

PRESENT

Shri F. Jeejeebhoy, Presiding Officer.

APPEARANCES:

For the Employers

Messrs. C. Doraswamy and L. B. Cox.

For the Workmen

Shri A. Ramachandran Bar-at-Law.

Shri R. Venkatanarayanan, Secretary, Lloyds Bank Employees Union.

Shri S. K. Subramaniam, President, City Bank Employees Union.

Shri Munian Arumugam.

AWARD

By its order of 6th April 1959 the Government of India in the Ministry of Labour and Employment referred to this Tribunal the following dispute between the Lloyds Bank Ltd., Madras, on the one hand and a discharged employee Shri Munian Arumugam on the other. The Reference is in following terms:—

“Whether the discharge of Shri Munian Arumugam by the Lloyds Bank Limited, was justified and in order; and, if not, to what relief he is entitled.”

2. The facts are within very narrow compass. The employee was a member of the watch and ward staff of Lloyds Bank Ltd., at Madras. On 11th November, 1958 his hours of duty were from 5-30 to 9-30 P.M. Admittedly he was not on duty on that day within those hours nor had he asked for leave of absence. He was therefore charged as follows:—

“(a) Gross misconduct in that you absented yourself without permission from watchman duty at the Bank on 11th November, 1958 between the hours of 5-30 and 9-30 P.M. such conduct amounting to negligence likely to involve the Bank in serious loss.

(b) Minor misconduct in that on 11th November, 1958 between the hours of 5-30 and 9-30 P.M. you were absent without leave from duty at the Bank.”

3. The employee declined to give any explanation in writing to the charges so made, but he appeared at the enquiry which lasted two days and at which he was represented throughout by Shri Sreenivasan who is the President of the City Bank Employees' Union. It was the employee's contention that on the day in question he discovered that his presence was essential as the eldest son-in-law in his father-in-law's house on the occasion of Diwali. He therefore proceeded to the Bank premises at 5-30 P.M. and requested the watchman on duty Jit Bahadur, whom he was to relieve to work the shift for him from 5-30 P.M. to 9-30 P.M.

4. On the relevant factors relating to the first charge would be the truth or falsity of the employee's story that he went to the Bank on that day at 5-30 P.M.

and asked Jit Bahadur to carry on for him during the 5-30 P.M. to 9-30 P.M. shift.

5. There was a rather elaborate enquiry. It is said that the employee as well as Jit Bahadur went back on their previous statements, and there was the suggestion by labour that the managerial staff had fabricated a case against the employee.

6. Shri Sattanathan, an officer of the Bank had paid a surprise visit on that evening at 6-30 P.M. and found that the employee was not in the premises, but there was the Gurkha sitting outside on the steps. He was told by the Gurkha (Jit Bahadur) that Arumugam had not come and that he was waiting for Arumugam to turn up, and Jit Bahadur was in fact not in uniform. Sattanathan next day interrogated Jit Bahadur again, and the latter reiterated that Arumugam had not reported for duty at all, and this was said in the presence of Shri V. G. K. Nayar and Shri Janakiraman. Shri Sattanathan questioned Arumugam the next day when he came on duty in the evening. According to Shri Sattanathan, at first Arumugam said that he had been in the lavatory at the time, and on the following day he admitted that he had in fact not reported for duty at all. At the enquiry Jit Bahadur gave quite a different story and said that he was on duty between 5-30 P.M. and 9-30 P.M. on the relevant day because Arumugam had requested him to take over; and Arumugam took the same line.

7. The proceedings of the enquiry were recorded in shorthand and it was a full enquiry, probably too expensive. The enquiring officer found that the second charge had been proved, but that the first charge had not been proved according to the evidence adduced. The employee was therefore censured on the second charge. The Bank manager however on the following day informed the employee: "by acting in the manner you did on 11th November, 1958 and having failed to carry out your allotted duty without obtaining prior permission or giving advance notice to the appropriate authority you have in my opinion failed to discharge the responsibility with which you were entrusted as a Bank watchman. I have therefore lost all confidence in you and I feel that I can no longer rely upon you to carry out your duties in a responsible manner. In these circumstances I have decided that I cannot retain you on the staff any longer and you are therefore discharged from the service under paragraph 521 (10)(c) of the Sastry Award. Your services are therefore terminated forthwith and you will be paid the following amounts". It is in respect of this discharge order that this Reference has been made. Without doubt the management has the right to discharge an employee but there must be no *mala fides* about it.

8. The employee thus left the Bank, and the union alleging *mala fides* is asking for his reinstatement on the grounds; (a) that the enquiry was conducted in an unfair manner; the defence representative was not given proper opportunity to cross-examine the witnesses; that the objections raised by the defence representative were not even recorded; that the proceedings were not properly recorded, and the employee was supplied with a copy of the proceedings only on 24th December, 1958 long after his discharge; (b) that the action of the management in discharging the employee was illegal, improper, arbitrary and capricious and amounts to unfair labour practice and is an act of victimisation; (c) that the discharge has violated various provisions of the Sastry Award; (d) that "on merits the punishment awarded is unduly harsh and vindictive.

9. At the hearing before me evidence was recorded and Shri Sreenivasan and the employee gave evidence in support of the employee's case. Mr. L. B. Cox, Accountant of the Bank also gave evidence, Shri Sreenivasan stated that he had been 8 years in the trade union movement and had attended four enquiries on behalf of persons charged including this one. He knew he had the right to cross examine and he asked to be allowed to cross-examine but was refused permission; he was objecting to the Enquiry Officer's putting leading questions and he also asked for copies of the first statement made by witnesses but they were not supplied. His case on behalf of the employee at the enquiry was that the employee was to be on watch and ward between 5-30 P.M. and 9-30 P.M. on that evening, but he went to the Bank and stayed there for only 10 minutes, and in that time arranged with the other watchman (Jit Bahadur) who was finishing his duty at 5-30 P.M. to take over his duty, and that Jit Bahadur agreed to do so; the employee did not apply to the Bank for leave on that day nor did he telephone to any officer of the Bank to ask for leave. Shri Sreenivasan admitted that on a previous enquiry in this Bank he had cross-examined 8 witnesses. His objection was that his and the employee's signatures were not taken at the end of the day, presumably on the enquiry

proceedings. When the order of discharge was given he made no complaint about all the alleged deficiencies of the enquiry which he was making before me, because, he said, he did not wish to rake up matters.

10. The employee Arumugham has stated in his evidence that he did attend the Bank at 5-30 P.M. on that day and asked Jit Bahadur to do his work because he had to go to his father-in-law's house. He did not ask for leave from the Bank as it was a holiday, and he did not telephone to the Manager because Jit Bahadur had agreed to do his work.

11. Mr. Cox on behalf of the Bank who was the enquiring officer has stated that everything that took place was recorded in the proceedings. Before the enquiry started Shri Sreenivasan asked him whether he was going to conduct the enquiry in exactly the same way as he had done in another case, to which he replied that he would conduct the enquiry according to the directions of the Sastry Tribunal. This witness denied that he did not let Shri Sreenivasan cross-examine any witnesses. He asserts that at every relevant point he asked Shri Sreenivasan whether he wanted to cross-examine. The stenographer however did not record that fact. But he instructed his stenographer next day to make a record in the proceedings even of such matters. The witness Jit Bahadur had walked out of the room where the enquiry was being held, and had refused to come back, and had otherwise disobeyed the management and had gone round breaking furniture. He had to be charge-sheeted and was dismissed.

12. I have carefully considered the evidence, and having regard to the facts and circumstances and after perusal of the enquiry proceedings. I am satisfied that Shri Sreenivasan had been given full opportunity to cross-examine the witnesses, that the enquiry was conducted with propriety and fairness, and that the employee had been given every opportunity to defend himself. I am satisfied that Jit Bahadur and the employee had gone back on their previous statements made to the officer of the Bank. The Bank had reasonable basis for their attitude that they had lost confidence in the employee and that they could not keep him any longer in service. He had declined to file a written explanation, and had apparently colluded with Jit Bahadur to present a different case at the enquiry. It is incumbent on the watch and ward staff to be alert to their duties, for any dereliction on the part of the watch and ward of a Bank could entail serious consequences. There is no foundation for the charge that the management in discharging the employee was doing something illegal, improper, arbitrary or capricious as alleged or that it was a victimisation or unfair labour practice. No provision of the Sastry Award has been violated as has been alleged and I am unable to come to the conclusion as asked for by labour that the discharge order is unduly harsh or vindictive.

13. It has now been judicially held that the management has the right to discharge an employee, provided that the discharge is not *mala fide*. The Sastry Award also contemplates a discharge in circumstances like the present. I cannot but hold that the discharge of Shri Munian Arumugham by the Lloyds Bank Ltd., proceeded on just grounds and that it cannot be challenged.

14. At the end of the hearing an appeal was made to me that notwithstanding the failure of this Reference I should use my good offices with the management so as to save the employee from the rigours of the order of discharge. It is evident that the union had in this case made a mountain of a molehill, and the employee had been very badly advised as to the manner in which he met the charge. I have no doubt that if the employee had frankly stated the truth to the management and asked to be forgiven, the management would have treated him with leniency. The union approached the subject in an aggressive spirit, more concerned about itself than with the interests of the employee. The allegations which were made at the hearing by Shri Sreenivasan were objectionable, and the allegations against the enquiring officer were baseless, and there is nothing to support the charge of *mala fides* against the Bank. I have observed the employee as he gave evidence before me; he seems to be a simple man, who had been misled. In answer to their plea I told Shri Sreenivasan as well as the employee that I would be prepared to use my good offices only if I received token of due amends from the employee as well as from the union and Shri Sreenivasan. They have all given me in writing their regret at what had happened and their unconditional apology and the withdrawal of the allegations which they had made. I have no doubt that the employee is genuinely sorry for what happened, and that if he had been left to himself he would not have been in his present difficult situation. While I have come to a finding that the Bank was justified in discharging this employee, I would recommend to the Bank that

the employee may be given another chance. It will be open to the Bank to require the employee to refund the provident fund moneys as well as gratuity (if he has taken them) before he is allowed to resume work, and for that purpose a fortnight's time might be given to him from the date of publication of this award. The employee cannot escape reasonable punishment for his dereliction of duty, and it would be open to the management to make it a term of his return to work that he shall not receive any salary from the date of the discharge order till the date on which he is taken back. Copies of the letters from the union and the employee himself are annexed herewith.

15. Now, therefore, I make an award accordingly.

13th August, 1959.

Sd/-, F. JEEJEEBHROY,
Presiding Officer.

LLOYDS BANK EMPLOYEES' UNION

(Registered Under the Indian Trade Unions Act 1926—No. 2627)

Address Communications to the SECRETARY.

12/13, ANGAPPA NAIKEN STREET, (TOP FLOOR)
MADRAS—1.

Ref: No.....

Date: 5th August, 1959.

To

The Presiding Officer,
Central Government Industrial Tribunal,
City Ice Buildings, 298, Bazargate Street,
Fort, Bombay—1.
Camp: M A D R A S.

Sir,

Reg: Ref. (CGIT) No. 13 of 1959.

Hearing at Madras on 5-8-'59.

At the hearing mentioned above, we had the advantage of this case being fully considered. We have no desire that the workman Shri Arumugam should suffer because of any errors on our part. We unconditionally withdraw all the allegations made against the management as also the letters that we wrote about the case to the authorities and others. We apologise to the management for the allegations that we made and which we have now withdrawn. We pray that in view of this letter, the Tribunal may be pleased to condone Shri Arumugam's fault and he may be reinstated in his post.

Sd/- S. K. SUBRAMANIAM,
President

Yours faithfully,
Sd/- R. VENKATANARAYANAM,
General Secretary.
Sd/- G. SRINIVASAN,

Employee's representative in the enquiry.

True Copy.

M A D R A S.

Dated: 6th August, 1959.

From

Munian Arumugham,
No. 119, Krishnarajapuram,
Warren Road,
Mylapore, MADRAS—4.

To

The Presiding Officer,
Central Government Industrial Tribunal,
City Ice Building,
Bazargate Street,
B O M B A Y—1.

In the matter of dispute between the Lloyds Bank Ltd. and their workmen.

Ref. (CGIT) No. 13 of 1959.

Having had the benefit of the above dispute being heard in full by your Lordship, I am indeed sorry that owing to a mistake on my part, there should have been bitterness between the Bank and the employees and the dispute dragged to such unnecessary extent. I realise now that if, as your Lordship had

suggested, I had apologised to the Bank at the outset itself for my unauthorised absence, the present situation putting entire career in peril would not have arisen

I express deep regrets for my conduct, and undertake to perform my duties diligently in future I apologise to the Bank for having caused the present inconvenience to them I have requested the Union to withdraw all allegations made against the Bank unconditionally

I request your Lordship, in view of my above submissions, to please reinstate me in my services with back wages

I have not withdrawn my provident fund or other benefits from the Bank

True Copy

Yours faithfully,

Sd/- M ARUMUGAM

[No. LR.II-10(20)/59]

S O. 1937.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the New Govindpur Colliery and their workmen

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 36 OF 1959

PARTIES

Employers in relation to the New Govindpur Colliery

AND

Their workmen

Dhanbad, dated the 7th August, 1959

PRESENT.

Shri Salim M. Merchant, B A L L B, Presiding Officer

APPEARANCES

Shri S. S. Mukherjea, Advocate,

with Shri D Narsingh, Advocate—for the employers.

Shri B N. Sharma,

Member, Executive Committee,

Colliery Mazdoor Sangh—for the workmen

STATE Bihar.

INDUSTRY. Coal.

AWARD

The Government of India, Ministry of Labour and Employment Order F. No. LR.II/2(72)59 dated 25th May, 1959 made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), was pleased to refer to me for adjudication the industrial dispute between the parties above named in respect of the matters specified in the following schedule to the said Order:

"Whether the management was justified in treating Shri Guda Bowri, miner as a new entrant from the 1st December, 1958 If not, to what relief is he entitled?"

2. After the parties had filed their written statements the dispute was taken up for hearing on 6th August, 1959

3 The facts of the case briefly stated are that Guda Bowri was employed as a miner in the New Govindpur colliery It appears that he absented himself from 9th November, 1958 to 25th November, 1958 and went home as his son was ill He returned on 25th November, 1958 and made an application to the management for being allowed to rejoin work In his application he stated that he had gone home as his son was ill and that as his son died he could not return for duty for two weeks The management, however, allowed him to rejoin service from 1st December, 1958 treating him as a new entrant in its service. This action of the management has given rise to the present dispute

4. At the hearing before me on 6th August, 1958, after the parties had made their respective submissions, on my suggestion, the parties were agreed that the service of Guda Bowri should be treated as continuous from 21st June, 1955 from which date he had been in continuous service of this colliery till he absented himself from 9th November, 1958.

5. In the result, I award that Shri Guda Bowri shall not be treated as a new entrant in the service of this colliery from 1st December, 1958 but that he shall be deemed to be in continuous service of this colliery from 21st June, 1955.

6. No order as to costs.

Sd/- SALIM M. MERCHANT,

Presiding Officer,
Central Govt. Industrial Tribunal, Dhanbad.

Dhanbad,
7th August, 1959.

[No. LR.II.2(72)/59.]

S.O. 1938.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Dhanbad, in the industrial dispute between the employers in relation to the Ashakutty/Phularitand Colliery of M/s. H. V. Low and Co. (P) Ltd., Dhanbad and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 8 OF 1959

PARTIES :

Employers in relation to Ashakutty/Phularitand Colliery of Messrs. H. V. Low & Co. (P) Ltd. Dhanbad.

AND

Their workmen.

Dhanbad, dated the 12th August, 1959

PRESENT :

Shri Salim M. Merchant, B.A.L.L.B., Chairman.

APPEARANCES :

Shri S. S. Mukherjee, Advocate, with Shri M. R. Bannerjee, Chief Mining Engineer,—for the Employers.

Shri D. Narsingh, Advocate, instructed by Shri G. D. Tewari, Secretary, Phularitand Branch of Congress Mazdoor Sangh—*for the workmen.*

STATE: Bihar.

INDUSTRY: Coal.

AWARD

The Government of India, Ministry of Labour & Employment by order No. LR.II/2(4)/59 dated 5th February 1959, made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), was pleased to refer to me for adjudication the industrial dispute between the parties above named in respect of the subject matters specified in the following schedule to the said order:

“(a) Whether the dismissal of Shri Rasdeo Tatwa, Onsetter, by the management of Ashakutty/Phularitand colliery, Dist. Dhanbad, is justified?

(b) If not, to what relief the workman is entitled?”

2. After the parties had filed their usual written statements, the dispute was fixed for hearing on 2nd July 1959, after which the parties applied for time to negotiate for a settlement. At the adjourned hearing on 8th August, 1959 the parties filed the terms of settlement reached between them and prayed that an award be made in terms thereof. A copy of the joint application of the parties containing the terms of settlement dated 8th August, 1959 is annexed hereto and marked Annexure ‘A’. As I am satisfied that the terms of settlement are fair and reasonable, I make an award in terms of the settlement reached between the parties.

3. No order as to costs.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Govt. Industrial Tribunal
Dhanbad

Dhanbad,
12th August, 1959.

ANNEXURE "A"

BEFORE THE CHAIRMAN, CENTRAL GOVT. INDUSTRIAL TRIBUNAL,
DHANBAD

REFERENCE No. 8 OF 1959

Employers in relation to Ashakutty/Phularitand Colliery

AND

Their workmen.

The humble petition on behalf of the parties

Most respectfully sheweth:—

(1) That the above reference has been settled between the parties on the following terms:—

(2) That the employers will pay Shri Ramdeo Tatwa half pay from 10th October, 1958 to 10th July, 1959 amounting to Rs. 415/- and retrenchment compensation together with notice pay amounting to Rs. 552/- i.e. a total sum of Rs. 966/- (Nine hundred and sixty six) only.

(3) That the workman does not press his claim for reinstatement or any other relief under the present reference.

(4) That the above sum of Rs. 966/- will be paid to the workman within seven days from date.

(5) That Shri Ramdeo Tatwa will vacate the colliery quarters at present occupied by him on the same date of the receipt of the above amount and will hand over the vacant possession to the employers.

(6) That the parties will bear their own respective costs.

It is therefore humbly prayed that the Reference may be disposed of on the above terms and an award be passed in terms thereof.

And for this your petitioners as in duty bound shall ever pray.

For Workmen.

M. R. BANERJEE,
For Employers
Chief Mining Engineer.
31-7-59.
S. S. MUKHERJEA,
Advocate.
31-7-59

Sd/- RAMDEO TATWA,
8-8-59.

D. NARSINGH,
Advocate.
8-8-59.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Govt. Industrial Tribunal,
Dhanbad.
8-8-59.

[No. LR II/2(4)/59.]

Taken on file.
Sd/- SALIM M. MERCHANT.
8-8-59.

S.O. 1939.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Dhanbad, in the industrial dispute between the employers in relation to the Victory Colliery, P.O. Dhansar, Dhanbad and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

REFERENCE No. 19 OF 1959

PARTIES:

Employers in relation to the Victory Colliery, P.O. Dhansar
AND

Their workmen.

Dhanbad, dated the 7th August, 1959

PRESENT:

Shri Salim M. Merchant, B.A.L.L.B., Presiding Officer.

APPEARANCES:

Shri S. S. Mukherjea, Advocate, with Shri M. L. Agarwalla, Managing Director,—for the employers.

Shri D. Narsingh, Advocate, with Shri A. Das Gupta, Secretary, Colliery Mazdoor Sangh,—for the workmen.

STATE: Bihar.

INDUSTRY: Coal.

AWARD

The Government of India, Ministry of Labour & Employment, by order No. L.R.II/2(102)58 dated 28th March 1959, made in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XVI of 1947), was pleased to refer the industrial dispute between the parties above named to me for adjudication in respect of the matters specified in the following schedule to the said Order:—

"Whether the retrenchment by Victory colliery of the following fifteen workmen was justified? Whether they are entitled to any relief, and if so, to what relief?

- (1) Shri Jagan Nonia
- (2) Shri Hari Nonia
- (3) Shri Mahgu Nonia
- (4) Bineshwar Dusadh
- (5) Shri Kall Nonia
- (6) Shri Haricharan Nonia
- (7) Shrimati Murchhi Kamin
- (8) Shri Dip Narain Nonia
- (9) Shrimati Sundri Kamin
- (10) Shrimati Samundri Kamin
- (11) Shrimati Dhaneshwari Kamin
- (12) Shrimati Domni Kamin
- (13) Shri Bifan Nonia
- (14) Shrimati Jirwa Kamin
- (15) Shrimati Devrania Kamin."

2. After the parties filed their written statements, the dispute was fixed for hearing on 22nd July 1959, when parties applied for an adjournment to explore chances of a settlement. At the adjourned hearing on 6th August, 1959, the parties filed the terms of settlement reached between them, copy of which is annexed hereto and marked Annexure 'A'. The parties are prayed that an award be made in terms thereof. As the terms of the settlement appear to be fair and reasonable, I make an award in terms thereof.

3. No order as to costs.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Govt. Industrial Tribunal,
Dhanbad.

Dhanbad,
7th August, 1959.

ANNEXURE "A"

BEFORE THE HON'BLE CHAIRMAN, CENTRAL GOVERNMENT'S
INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCE No. 19 OF 1959

Employers in relation to Victory Colliery,

AND

Their workmen.

The humble petition on behalf of the above-named parties.

Most Respectfully Sheweth:—

That the parties have amicably settled the dispute arising out of the above Reference on the following terms:—

Terms

(1) That the Employers will take back the 15 (fifteen) workmen named in the Reference in their original jobs within 4 (four) weeks from the date of this Agreement.

(2) That the 15 workmen should report for their respective duties within 4 (four) weeks from the date of this agreement, failing which they or any of them will not be entitled to claim re-instatement and the retrenchment effected concerning the workmen, will stand valid and they will be entitled only to retrenchment-compensation.

(3) That the workmen will not claim any back wages, allowances, bonuses and other benefits from the date of retrenchment to the date of their rejoining service.

(4) That the continuity of service of the workmen will not be broken on account of the retrenchment and the period from the date of retrenchment to their respective dates of rejoining will be treated as leave without wages for the purpose of continuity of service.

(5) That this Agreement is without prejudice to the respective contentions of the parties as stated in their written statements.

(6) That the parties will bear own respective cost of this Reference.

It is, therefore, humbly prayed that the present Reference may be disposed of on the terms of the above compromise and an Award passed in terms thereof.

And for this your petitioners, as in duty bound, shall ever pray.

Dated the 6th day of August 1959.

Taken on file.

For Workmen.

D. NARSH,

Advocate.

S. DASGUPTA,

Secretary Colliery Mazdoor Sangh.

For Employers

S. S. MUKHERJEE,
Advocate.

M. L. AGARWALLA,
Managing Director.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Govt. Industrial Tribunal,
Dhanbad.

[No. LR II/2(102)/58.]

S.O. 1940.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Dalingkote colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
DHANBAD.

REFERENCE NO. 1 OF 1959

PARTIES:

Employers in relation to the Dalingkote Colliery, Darjeeling District

AND

their workmen.

PRESENT:

Shri Salim M. Merchant, B.A., LL.B., Presiding Officer

Dhanbad, dated the 14th July 1959

APPEARANCES:

Shri S. Das Gupta, Secretary, Indian Mine Workers Federation,

Shri J. K. Maliyil, Secretary, Darjeeling Coalfield Workers' Union—for the workmen.

Shri P. K. Ray, Managing Director, M. K. Ray (Private) Limited—for the employers.

STATE: West Bengal.

INDUSTRY: Coal.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. LR.II/1(116)/58, dated the 31st December 1958 was pleased in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947) to refer to me the industrial dispute between the parties above-named in respect of the subject matters specified in the following schedule to the said order:—

SCHEDULE

“(a) whether the retrenchment of the following 19 workers was justified and in order:—

1. Shri A. Chakravorty.
2. Shri J. N. Chakravorty.
3. Shri G. C. Bhauja.
4. Shri K. B. Roy.
5. Shri P. N. Dey.
6. Shri H. S. Paul.
7. Shri N. N. Kar.
8. Shri D. Bardoloi.
9. Shri J. N. Banerjee.
10. Shri H. K. Paul.
11. Shri K. B. Chowdhury.
12. Shri S. B. Bakshi.
13. Shri B. N. Chakravorty.
14. Shri G. B. Chakravorty.
15. Shri J. K. Maliyil.
16. Shri G. C. Das.
17. Shri D. K. Bagchi.
18. Shri S. K. Chakravorty.
19. Shri J. N. Roy.

(b) If not to what relief they are entitled and from what date?"

2. After the usual notices were issued on the parties the Secretary, Darjeeling Coalfield Workers Union filed the statement of claim, dated the 20th January, 1959 to which the employers filed written statement in reply, dated the 16th February, 1959 after which the dispute was heard by me at Dhanbad on the 8th April, 1959, 9th April, 1959 and 11th April, 1959. I may state that at the hearing Shri P. K. Ray, Managing Director, filed a written application for the hearing to take place at Darjeeling or at a place near the colliery and for an adjournment but as the same was objected to on behalf of the workmen, Shri P. K. Ray withdrew the application.

3. After the hearing was concluded on the 11th April, 1959, Shri P. K. Ray by an application, dated the 12th April, 1959 applied for re-opening the enquiry for considering a certain statement about the particulars of dates of appointment, retrenchment, basic pay and other allowances. The statement also contains particulars of advances alleged to have been made by him to each of the 19 workmen concerned in this dispute. I thereupon fixed the application for hearing on the 6th May, 1959 but neither Shri P. K. Ray nor anybody else on behalf of the employers appeared at the hearing. Shri P. K. Ray, however, forwarded an application, dated the 28th April, 1959 in which he stated that he was unable to come to Dhanbad for hearing because of his ill-health. However, no medical certificate was forwarded and no application was made for altering the date of hearing. The workmen's representative filed a written objection in reply to the application for the re-opening of the enquiry. As no one appeared in support of the application for re-opening the hearing and as the same was opposed by the Union, and as the statements made in the applications, dated the 12th April, 1959 and 28th April, 1959 and their annexures were not admitted by the union, by a separate order, dated the 6th May, 1959, I dismissed the application for non-prosecution. Soon thereafter this Tribunal proceeded on tour and consequently there has been some delay in the submission of this Award.

4. The Dalingkote Colliery, which is also known as the Bangrakote colliery, was opened in 1946 and is worked by the open cast method. As such there is no mining of coal done during the rainy season, between June till and of August of each year. It was stated that this seasonal colliery employs about 500 to 600 workmen. However, about 70 workmen including these 19 workmen were permanent and in continuous employment throughout the year.

5. The coal of the Dalingkote colliery is anthracitic dust which is high in carbon and low in volatiles and is used mainly for brick burning. Till about February 1958 there were no restrictions on the sale of this coal and the colliery was allowed to secure orders from the open markets and had only to obtain sanctions (movement permission) from the Deputy Coal Controller (Distribution) in conformity with the Coal Control Order. It appears that complaints were made to the authorities that customers in the North Bengal area were not getting this colliery's coal. A conference appears to have been held in January 1958 and privileges which this colliery was enjoying in the free supply of its coal were restricted. The management protested to the authorities concerned and between February and April 1958 represented that unless these restrictions were raised, the management would have no other alternative but to suspend work and dispense with the services of its employees. (See Annexures B1 to B6 to the management's written statement). It appears that the quota for this colliery's coal allotted for Bihar was surrendered sometime in June 1958 as the coal was found to be un-saleable because of its inferior quality (Annexure C to the company's written statement).

6. The services of these 19 workmen were admittedly terminated by orders issued between the 31st May, 1958 to 3rd September, 1958. The union has annexed to its written statement a statement Annexure 'K' showing the dates of appointment and retrenchment of each of these 19 workmen. At the hearing Shri P. K. Ray had accepted the correctness of that statement but by his application for re-opening of the enquiry, dated the 12th April, 1958, he appears to have challenged the correctness of the dates of appointment of some of these workmen, but as I have already stated, though given a chance he did not appear at the hearing to establish the correctness of the statement annexed by him to his said application. It is, however, admitted that all these 19 workmen, were permanent employees and were monthly paid, except J. N. Roy (19), who was daily rated and had put in less than one year's completed service on the date of his retrenchment. The 19 workmen belonged to the category of Head Clerk, Clerks, Deputy Overmen, Mining Sirdars, Assistant Medical Officer and Office Peon.

7. The Union's case briefly stated is that the retrenchment of these 19 workmen was unjustified, illegal and *mala fide* and was effected with a view to victimise them for their trade union activities and was not a *bona fide* retrenchment in the sense that these workmen had become surplus to requirement. The Union has also urged that in retrenching these workmen the management had not observed the provisions of Sections 25F and 25G of the Industrial Disputes Act 1947 (XIV of 1947) (hereinafter referred to as the Act) and its Rules.

8. The management, however, contends that the retrenchment was effected as after the restrictions placed on the free movement of its coal, it was not possible to sell the coal of the colliery and the colliery was closed. The company contends that in retrenching these workmen, it had observed the provisions of Sections 25F and 25G of the Act and it further contends that as the colliery was closed down on account of un-avoidable circumstances beyond its control, under proviso to Section 25FFF(1) of the Act, the retrenched workmen were entitled to a maximum retrenchment compensation limited to three months' average pay.

9. The dispute referred to adjudication is whether this retrenchment was justified and in order and if not to what relief the retrenched 19 workmen are entitled to.

10. I shall first consider the question whether the retrenchment of these 19 workmen was justified. For that it is necessary to give a brief account of the events leading up to their retrenchment and the manner in which the same was effected. The union has urged that there was no good or justifiable reason for the management to curtail or restrict production and that in retrenching these workmen the management had victimised them for having formed a trade union to protect their rights and interests and also to create a situation by which it could bring pressure on the Government to withdraw the restrictions which had been imposed on the free movement of its coal. The union has alleged that the management was not observing the various labour laws and had not implemented the award of the All India Industrial Tribunal (Colliery Disputes), as modified by its decision of the Labour Appellate Tribunal and that the general condition of the workmen of this colliery was miserable. With a view to safeguard their interests the workmen on the 2nd June, 1958 formed themselves into a union called the Dalingkote Coalfield Workers' Union (hereinafter referred to as the Union). Of the 19 workmen under reference (whose serial number in the schedule to the order of reference is indicated hereinafter by figures in brackets put after their names), Sarvashree K. B. Roy (4), J. K. Maliyil (15), A. Chakravorty (1), were elected President, General Secretary and Honorary Treasurer respectively of the Union and Shri P. N. Dey (5) and Shri S. B. Bakshi (12) were elected members of its Executive Committee. Thereafter, on the 7th July, 1958 Shri J. K. Maliyil (15), the Secretary of the Union, addressed a letter to the Managing Director of Himalaya Coal and Mineral Industries, which, as admitted at the hearing before me by Shri P. K. Roy, is owned by P. K. Ray (Private) Ltd., informing him of the formation of the Union and submitted to him the names of the said office bearers and members of the Executive Committee of the Union (Annexure A). By that letter he also forwarded a copy of the resolution passed at a meeting of the Union held on the 6th July, 1958 by which it was resolved to discourage acceptance of loans and advances from the employer on individual basis as that was likely to sow seeds of disruption. In that letter he also mentioned the names of Sarvashree S. C. Chakravarti and P. K. Saha as having been elected as members of the Executive of the Union. That letter was admittedly received by Shri P. K. Ray, Managing Director on the 8th July, 1958. On the following day, Shri P. K. Ray, by his letter, dated the 9th July, 1958 (Annexure B), addressed to Sarvashree J. Maliyil (15), P. N. Dey (5) and S. B. Bakshi (12), put them on two months compulsory leave expiring on the 9th September, 1958 on the plea that the management apprehended serious fall in the sale of coal due to the restrictive policy introduced by the Deputy Coal Controller (Distribution) and also curtailment or complete suspension of coal mining. The management advised them to seek employment elsewhere during the period of leave. By another notice of the same date, displayed on the notice board, another batch of 10 workers including, K. B. Roy (4), (President of the Union), A. Chakravorty (1), (Treasurer of the Union), B. Chakravorty (14), N. N. Kar (7), H. K. Paul (10), K. B. Chawdhury (11), J. N. Banerjee (9), B. N. Chakravorty (13), eight others of the nineteen workmen concerned in this dispute, were also put on compulsory leave. On the 10th July, 1958 Shri P. K. Ray put another notice on the notice board addressed to "All staff of the Himalaya Coal and M. K. Ray (Private) Limited and Dalingkote Bagrakote Colliery", in which he warned the staff not to associate with Shri S. B. Chaudhuri, Shri J. N. Mishra and others named in the notice as they were trying to ruin the

colliery by sending false complaints to various Government Departments, as a result of which authorities in Bihar and Kanpur had refused to distribute the coal of this colliery. The Watch and Ward Staff were by that notice offered a reward for furnishing information about those member of the staff who would contact the said S. B. Chaudhuri and the others (Annexure C). It appears that Shri S. B. Chaudhuri and Shri J. N. Mishra, President of the West Bengal Plantation Workers' Federation, had earlier addressed a meeting of the members of the Union, as recorded by Shri J. K. Maliyil in his letter to the Regional Labour Inspector, Pakur, dated the 12th August, 1958. On the next day, i.e., the 11th July, 1958, Shri P. K. Ray, as Managing Director of the proprietors, addressed another letter to J. K. Maliyil (15), S. B. Bakshi (12), P. N. Dey (5), and K. B. Roy (4), advising them to seek jobs elsewhere and send in their resignations. The letter stated that because of surrender of certain quotas and the ban placed on the Bagrakote colliery in Assam, the proprietors had decided not to extract any coal from the Bagrakote colliery in this season for an indefinite period. He further informed them that he would be retaining some of the staff for maintenance purposes and other non-essential staff would be retrenched and arrangements were being made with the labour department for settlement of gratuity, if any, to the staff to be retrenched (Annexure D). Thereupon, on the 12th July, 1958, the Secretary of the Union addressed a letter to the Labour Inspector (Central), Pakur, to intervene in the matter and allay the discontent of the workmen by persuading the management to desist from its anti-union activities and the threat of retrenchment (Annexure E). On the 17th July, 1958, the Union Secretary addressed a letter to the Managing Director in which he requested him to desist from threatening the members to resign from the union and warned him that this amounted to unfair labour practice under Section 28K of the Indian Trade Union and Amendment Act 1947 and was punishable under Section 32A of that Act, and that if this attitude was continued, the union would be forced to seek Government intervention (Annexure F). A copy of this letter was also forwarded to Regional Labour Commissioner (Central), Dhanbad. According to the union this further enraged Shri P. K. Ray who by his letter, dated the 31st July, 1958 retrenched Shri J. K. Maliyil with immediate effect and informed him that the salary for the month of August 1958, which had been paid to him in advance, was adjusted against the notice pay. He was further asked to vacate the room occupied by him within 7 days, failing which he would be liable to pay damages at the rate of Rs. 3 per day. He was further told that he was not expected to attend office (Annexure G). By another notice of the same date addressed to Sarvashree G. C. Das (16), D. K. Bagchi (17) and S. K. Chakravorty (18), Shri P. K. Ray informed them that their services were dispensed with with effect from the 8th August, 1958. The reasons stated for this action was the decision to curtail work of Dalingkote colliery. By another circular letter, dated the 5th August, 1958, the authority granted by the Manager of the colliery in favour of Sarvashree D. K. Mukherjee, A. Chakravorty (1), J. K. Chakravarty (2), G. C. Bhanja (3), B. N. Chakravorty (13), H. K. Paul (10), D. Bardoloi (8) and S. B. Gomes was cancelled and they were warned that they would be liable in damages if they continue to work. According to the union two of these workmen, namely D. K. Mukherjee and S. D. Gomez were thereafter retained in service and the other six, who are among the 19 retrenched workmen concerned in this reference, were subsequently discharged from service as stated hereinafter. Thereafter, by a telegram, dated the 30th August, 1958 sent from Calcutta the following 12 workmen were retrenched with immediate effect:—

- A. Chakravorty (1).
- J. N. Chakravorty (2).
- G. C. Bhanja (3).
- K. B. Roy (4).
- P. N. Dey (5).
- N. N. Kar (7).
- J. N. Banerjee (9).
- H. K. Paul (10).
- K. B. Chowdhury (11).
- S. B. Bakshi (12).
- B. N. Chakravorty (13).
- G. B. Chakravorty (14).

The telegram stated:—

"Mining work in Dalingkote colliery completely curtailed. Your services retrenched with immediate effect."

It is admitted that this telegram was received by the workmen on the 1st September, 1958. However, Sarvashree Bardoli (8) and H. S. Paul (6) received post cards of the 3rd September, 1958 purporting to be in confirmation of the aforesaid telegram. The last of the 19 workmen, Shri J. N. Roy (19) was discharged from service without any letter, notice, or telegram addressed to him but on the strength of the letter, dated the 30th August, 1958, addressed by the Managing Director to Shri Hem Chandra Chakravarti in which he stated, "as Shri J. N. Roy was engaged on daily basis, he should be asked not to come for work but should be paid two weeks wages" (Annexure J). In this manner the services of these 19 workmen were terminated between the 31st July, 1958 and the 3rd September, 1958.

11. The proceedings before the Conciliation Officer in the dispute over the retrenchment of these workmen did not result in a settlement, though at one time Shri P. K. Ray appeared to be willing to take back the retrenched workmen and keep them till the operations of the next season, but later he resiled from that position, as recorded by the Regional Labour Commissioner in his failure report, dated the 1st December, 1958, after which the dispute was referred to adjudication.

12. The management in its written statement has denied that there was any genuine discontent amongst its workmen and its case is that the workmen had become the victims of some rival businessmen, who were guiding the union with the ulterior motive of bringing about the ruin of this colliery. It has urged that the management had always treated its workmen kindly and with sympathy and in proof it has stated that it had given its employees large advances for constructing houses, for matrimonial purposes and for their urgent needs. The management has stated, "its liberalness towards its employees in some cases would be beyond the imagination of any employer." The company's case is that as the result of the restrictions placed by the authorities on the free supply of its coal, it became necessary to curtail its coal production and consequently the retrenchment of the workmen became inevitable. It has denied that it had victimised these workmen for their trade union activities and has submitted that it first put Shri J. K. Maliyil and others on leave in order to give them a chance to secure employment elsewhere. It has further urged that in effecting retrenchment it had followed the provisions of Sections 25F and 25G of the Act and its rules. The company has stated that all the retrenched workmen were offered notice pay and retrenchment compensation, but that they had refused to accept the same. The company has stated that following eight workmen under reference viz. Sarvashree J. N. Chakravarty (2), K. B. Roy (4), P. N. Dey (5), H. S. Paul (6), N. N. Kar (7), K. B. Choudhry (11), S. B. Bakshi and (12) B. N. Chakravarty (13), would be found indebted to the company even after the notice pay and retrenchment compensation amounts were adjusted against the outstanding loan amounts due by them to the company. The management has, therefore, submitted that this retrenchment was justified.

13. It appears to me that considering the circumstances and manner in which these 19 workmen were retrenched, the Union's contention that their retrenchment was not justified and was directed against the union office bearers and its members has substance. The Union, as I have already pointed out, was formed on the 2nd June, 1958 and intimation of this, along with the names of the office bearers and members of the Executive Committee were forwarded to Shri P. K. Ray by the Union Secretary's letter of the 7th July, 1958 (Annexure A), receipt of which on the 8th July, 1958, Shri P. K. Ray has admitted. Immediately this letter was received, Shri P. K. Ray by his letter, dated the 9th July, 1958 (Annexure B) put on leave Shri J. K. Maliyil (15), the Secretary of the Union, and Shri P. N. Dey (5) and Shri S. B. Bakshi (12), two of its Executive Committee members. He also put on leave two other members of the Executive Committee, namely Shri H. C. Chakravarty and Shri B. K. Saha. It is admitted that B. K. Saha was thereafter continued in service, but its case is that this was done because Shri Saha resigned membership of the union. H. C. Chakravarty, who was then serving as a cashier, was removed from that post and subsequently retained in service in some other post. The abrupt manner in which the Secretary of the Union and the four members of the executive committee were put on leave, on the day following the day on which Shri P. K. Ray received intimation of the formation of the Union and their subsequent retrenchment, does lend support to the Union's contention that they were selected out because they were active members of the union. The subsequent action of the Managing Director in sending 12 other workmen on leave by notice, dated the 9th July, 1959 being pasted on the notice board (Annexure C), including the President and Treasurer of the Union also suggests the same motive. The notice, dated the 10th July, 1958 (Annexure C) addressed to "all the staff" warning

them against associating with Shri S. B. Choudhry, J. Mishra and others and offering reward to the watch and ward staff who would inform the management about the staff who were associating with them, along suggests an anti-union bias, as Shri S. B. Choudhry and Shri J. Mishra were active and leading Trade Unionists, the latter being the President of the West Bengal Plantation Workers Federation, and appear to have addressed a general meeting of the members of this union prior to that date and were guiding the union as recorded by Shri J. K. Maliyil, the Union Secretary, in his letter, dated the 12th July, 1958 addressed to the Regional Labour Inspector (Central), Pakur. This is further supported by the notice, dated the 11th July, 1958 (Annexure D) addressed to Shri J. K. Maliyil (15), Secretary of the Union. Shri B. K. Roy (4) (President of the Union), Shri S. B. Bakshi (12) (member of the Executive Committee) and Shri P. N. Dey (5), advising them to put in their resignations. It is further significant that the first of these 19 workmen to be retrenched was Shri J. K. Maliyil, the Secretary of the Union, who was retrenched with immediate effect by the company's notice, dated the 31st July, 1958 (Annexure G). It is significant that he was served with this notice, after he had addressed his notice, dated the 12th July, 1958 to the Regional Labour Inspector (Central), Pakur, with copy to the Managing Director, protesting against the anti-union activities of the management and charging it with unfair labour practices under the Trade Union Act and also after he had addressed his letter to the Managing Director, dated the 17th July, 1958 (Annexure F). The manner in which Shri Maliyil was asked immediately to vacate his quarters and the threat to charge him at the rate of Rs. 3 per each day he continued in occupation of the quarters suggests that Shri P. K. Ray was enraged against the union for having made those representations to the Regional Labour Inspector. Similarly, the action of the management in summarily terminating the services of Sarvashree G. C. Das, D. A. Bagdhi and S. K. Chakravarti with effect from the 8th August, 1958 by notice, dated the 5th August, 1958 (Annexure H) and the management's second notice of the same day withdrawing the authorisation in favour of 8 of the other workmen in this reference and threatening to hold them responsible in damages for un-warranted work, and their subsequent retrenchment with immediate effect by telegram on the 1st September, 1958 indicate that there was something more behind this action of the management than the normal action of retrenching workmen who had become surplus to its requirements. It does appear to me that the conduct of the Managing Director shows that he was enraged against the workmen for having formed the trade union and having made representations against him to the Regional Labour Inspector (Central). I am inclined to feel that if the union had not been formed on the 2nd June, 1958, probably the retrenchment of these 19 workmen would not have followed.

14. At the hearing Shri P. K. Ray urged that the colliery had closed by the time the retrenchment of these 19 workmen was effected, but in none of these notices is there a categorical statement that the colliery had closed down. Shri P. K. Ray could not even give any definite date when this colliery was closed down. It is to be remembered that the retrenchment was effected during the rainy season when normally the working of the colliery is suspended as it is worked by the open cast method. If it was a question of complete closure, it is difficult to understand why only these 19 workmen of about 70 of the permanent workmen, were retrenched. It is also difficult to believe that the majority of the remaining permanent workmen were retained for maintenance purposes. Besides, there seems to have been no method in the manner in which the retrenchment was effected. If retrenchment was effected because the colliery had been closed down, and there was no other ulterior motive behind the retrenchment, then surely one would have expected the management to have behaved in a more rational manner and not retrench workmen in the erratic manner in which workmen were first put on leave and then suddenly retrenched; and that too in batches. It is on record that as late as in December 1958, several months after these workmen were retrenched, the management had sent out H. C. Chakravarty on tour to various places in Bihar to secure further orders (Exhibit W.F.). That the colliery was not closed and was intended to be worked during the year 1958-59 season is also borne out by Shri P. K. Ray's letter, dated the 24th July, 1958 to the Chief Inspector of Mines, in reply to the latter's request for appointing a Welfare Officer for the Dalinkote colliery, in which the latter had stated, "with our expected production of 4,000 tons only from maintenance work during 1958-59, we are not going to employ more than 100 labourers and cannot afford to appoint a Welfare Officer, for the coming year 1st July 1958 to 30th January 1959" (Exhibit W.Q.). In all the notices, addressed to the workmen, there was a reference only to the fear of fall in production. There was only a fear of the colliery having to close down. That the colliery

was not completely closed down when these workmen were retrenched is also borne out by the statement in the collieries' written statement where it was stated that certain number of workmen had to be retained," till the colliery is initially close down.

15. It also appears to me that Shri P. K. Ray was annoyed with the control authorities for having restricted the free movement of the coal from this colliery and was trying his best to get that order modified and was using the threat of retrenchment of the workmen as an argument for getting that order revised. It also appears that in June 1958 he had been given an unlimited period within which to fulfil the orders for his coal but Shri P. K. Ray did not utilise that opportunity [see paras (b) and (c) to Annexure B(6) to the company's written statement].

16. For all these reasons, I am satisfied that the retrenchment of these 19 workmen was not justified.

17. The second issue is whether the retrenchment was in order i.e. whether the provisions of the Act regarding retrenchment were followed. Section 25F of the Industrial Disputes Act lays down certain conditions precedent to retrenchment. Section 25F provides that no workmen employed in an industry who has been in continuous service for not less than one year, shall be retrenched by the employer until (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of notice; (b) the workman has been paid at the time of retrenchment compensation which shall be equivalent to 15 days' average pay for every completed year of service or any part thereof in excess of 6 months; and (c) notice in the prescribed manner is served on the appropriate Government. Now, the union's case is that the mandatory provisions of Section 25F were not followed. Except in the case of Shri J. K. Maliyil none of the retrenched workmen was given a month's notice or was paid in lieu of such notice wages for the period of the notice. As I have already indicated above, all the retrenchments were made with immediate effect or by 3 days' notice. The provisions of section 25F(b) were also not observed as the retrenched workmen were not paid at the time of retrenchment the compensation that they were entitled to. It is admitted that except in the case of one workman viz. Shri J. N. Roy, all the other workmen had put in more than one year's completed service on the date they were retrenched. Nor did the company observe the provisions of Section 25F(c) inasmuch as the notice to Government in Form P was sent only on 19th January 1959 which was long after the retrenchment was affected and also after the reference was made. This was clearly in violation of Rule 76 of the Rules framed under the Act. The company has stated that it had offered retrenchment notice pay to the workmen when they were retrenched but there is nothing to show that it had done so at the time of the retrenchment. The company only on 9th January 1959 after this reference was made addressed notices to the workmen stating that they were entitled to compensation not exceeding three months average pay under the proviso to sub-section (1) of Section 25FFF of the Industrial Disputes Act and it had remitted compensation to them on that basis by money orders, which it is admitted the workmen refused to accept. The specimen copy of such notice addressed to Shri J. K. Maliyil is on file as Exhibit E-3. It is significant to note that this was done on 9th January 1959 after this dispute was referred for adjudication to this Tribunal and it appears to me to be an after-thought.

18. Now section 25FFF provides for compensation to be paid to workmen in case of closing down of undertakings and the relevant portions of that section are as follows:—

"S. 25FFF(1): Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in the undertaking immediately before such closure shall subject to the provisions of sub-section (2) be entitled to notice and compensation in accordance with the provisions of Section 25F as if the workman had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer the compensation to be paid to the workmen under clause (b) of Section 25F shall not exceed his average pay for 3 months.

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Explanation.—An undertaking which is closed down for the reason merely of financial difficulties (including financial losses) or accumulation of un-disposed of stocks shall not be deemed to have been closed down on account of un-avoidable circumstances beyond the control of the employer within the meaning to the proviso of this sub-section”.

Then follows sub-section (2), which deals with cases of closure of undertakings such as construction works but we are not concerned with that provision in the instant case.

19. Shri P. K. Ray sought to argue that the retrenchment compensation payable to these retrenched workmen should be limited to the amount of their average pay for 3 months, as the retrenchment was covered by the proviso to Section 25FFF(1), as according to him the colliery was closed down on account of un-avoidable circumstances beyond his control. As I have already held that the retrenchment was not effected with the closure of the colliery, this contention of Shri Ray cannot be accepted. There is ample evidence on record to show that on the dates these workmen were retrenched between 31st July and 3rd September 1958, this colliery had not been closed down. Even if it was retrenchment effected on closure, the compensation payable to these retrenched workmen under Section 25FFF(1) would be the same as payable under Section 25F(b), unless the management establishes that the retrenchment was effected “for unavoidable reasons beyond the control of the employer.” The onus of proving this would be on the employer and Shri P. K. Ray has not discharged that onus. I, therefore, reject this contention and hold that the retrenched workmen are entitled to payment of full retrenchment compensation as provided by Section 25F(b) and the same cannot be limited to 3 months average pay under the proviso to Section 25FFF(1). There has been in my opinion a clear breach of all the 3 conditions precedent to retrenchment prescribed by Section 25F of the Act and of Rule 76 of the Industrial Disputes (Central) Rules. The High Court of Bombay has held in the case of the Hospital Mazdoor Sabha and the State of Bombay (1957—I.L.L. J. p. 55) that failure to comply with the conditions precedent to retrenchment, as prescribed by Section 25F, gives the workmen retrenched a right to challenge the retrenchment and contend that the services were not legally and effectively terminated.

20. I, therefore, hold on the second point under issue No. 1 under reference that the retrenchment of these 19 workmen was not in order.

21. The Union has urged that the management had not followed the procedure prescribed by Section 25G of the Act i.e. that it has not followed the principle of last come first go, in respect of the particular category of each of the 19 retrenched workmen. Section 25G is as follows:

“25G. *Procedure for retrenchment.*—Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.”

22. I have heard the submissions of the parties and I am satisfied considering the haphazard manner in which these 19 workmen were retrenched, that at the time of their retrenchment no consideration at all was paid to fulfilling the requirements of this section and that the management's attempt to establish that this was done is an afterthought. In that connection, the company's statement filed by Shri P. K. Ray at the hearing on 9th April 1959 in reply to a statement filed by the workmen justifying the retention in service of other junior workmen of the same or allied category is not convincing. After the hearing was closed on 11th April 1959 Shri P. K. Ray along with his application dated 28th April 1959, submitted a statement headed “Seniority list of workmen made under Section (sic) 77 of the Industrial Disputes Act 1947,” in which he has mentioned the names of some 58 employees. But as I have stated earlier though Shri P. K. Ray was given an opportunity to appear and establish the correctness of that statement, he did not avail himself of that opportunity. From the union's statement and from the submissions made at the hearing and bearing in mind the manner in which the retrenchment was effected, I am satisfied that when retrenching these 19 workmen, the management had not at all applied its mind to the provisions of Section 25G of the Act and Rule 77. I therefore hold that the provisions of Section 25G were not followed, I may, however, state that having held that the

provisions of Section 25F were not followed, it is hardly necessary to consider whether the provisions of Section 25G were also followed or not, in deciding whether the retrenchment was in order.

23. Having held that the retrenchment of these 19 workmen was not justified nor in order, the next question that falls for consideration is what relief these workmen are entitled to. The union in its written statement has claimed that the order of retrenchment against each of these 19 workmen should be set aside and they should be ordered to be re-instated in service, with continuity of service with full back wages and bonus, provident fund and other emoluments and benefits as if they had continued in employment till the date of their reinstatement.

24. From the submissions made at the hearing it does appear that this colliery has by now ceased to function and therefore there can be no question of directing the reinstatement of any of these workmen. If and when this colliery is re-started they will be entitled to re-employment in preference to other workmen under Section 25H of the Act. Though the workmen's reinstatement cannot in the circumstances be ordered, I think that as their retrenchment was illegal and in violation of Section 25F they should be entitled to some compensation in addition to one month's notice pay and the retrenchment compensation which they were entitled to on the basis of the length of their service under Section 25F of the Act. The union has urged that as the retrenchment was illegal, I should award them compensation equivalent to their wages for all the period from the date of their retrenchment till the date of this award. The management has, on the other hand, urged that the conduct of the union leaders does not justify any compensation to be paid to them except what they are entitled to under law. In that connection, Shri P. K. Ray, filed a letter dated 4th September 1959 addressed to him by Shri J. K. Maliyil (15), the Secretary of the union (Exhibit E-1) in which he had used objectionable language against Shri P. K. Ray. Shri Ray has also filed a letter dated 9th March 1959, addressed by Shri K. B. Roy (4), the President of the Union, to Shri S. C. Lahiri, one of the contractors, which also contains certain statements derogatory to Shri P. K. Ray and in which he (Shri K. B. Roy) had appealed to the contractor for monetary assistance for the union and had stated that the union was moving the Government to get the price of the coal of the colliery reduced substantially. (Exhibit E-2). No doubt this was objectionable conduct on the part of these two office-bearers of the union and Shri S. Das Gupta, very fairly did not attempt to justify it and stated that these letters were written in desperation. This conduct, however, cannot change the unjustifiability and illegality of the retrenchment, as they were written after the retrenchment was effected.

25. Considering all the facts and circumstances of the case, I direct the company to pay the 19 retrenched workmen, except Shri J. N. Roy (19), notice pay and retrenchment compensation at the rates prescribed by Section 25F(a) and (b) of the Act, i.e. equivalent to one month's pay in lieu of notice and compensation equivalent to fifteen days' average pay for each completed year of service or part thereof in excess of 6 months put in by them, as on the dates of their respective retrenchment, Shri J. K. Maliyil (15) shall not be entitled to the month's pay in lieu of notice, as he had received his salary for August 1958 in advance and the same should be adjusted against the notice pay. In addition, I direct that each of these 19 workmen except Shri J. N. Roy (19) shall be paid additional compensation equivalent to 2 months pay (basic pay and dearness allowance) for their illegal and unjustified retrenchment.

26. With regard to Shri J. N. Roy (19) as admittedly he had put in less than one year's completed service on the date of his retrenchment (having joined service on 19th March 1958) and he was paid 15 days wages when he was retrenched, I think the ends of justice would be satisfied if he were directed to be paid one month's wages and dearness allowance as compensation for his unjustified retrenchment.

27. The management has urged that there are certain amounts outstanding by each of these retrenched workmen by way of loans which the company had made to them and that these amounts should be directed to be deducted from the amounts that may be awarded by me. The company had stated the amounts outstanding against them in its notice dated 9th January 1959 of which Exhibit E-3 addressed to Shri J. K. Maliyil (15) is a specimen copy. But the workmen at the hearing disputed these loans. Shri P. K. Ray has not led any evidence to establish these loans or to establish the outstanding amount due from each of these workmen. It is, therefore, not possible to give any direction with regard to these loan amounts.

28. I further direct that the amounts found due to each of these 19 workmen under this Award as stated above should be paid to them within one month of the date the award becomes enforceable.

29. I award Rs. 100 as costs to the union.

Dhanbad,

The 14th July, 1959.

(Sd.) SALIM M. MERCHANT,
Presiding Officer,
Central Government Industrial Tribunal, Dhanbad.
[No. LR II/1(116)/58.]

New Delhi, the 31st August 1959

S.O. 1941.—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi in the industrial dispute between the employers in relation to Messrs. Bikaner Gypsums Ltd., and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: DELHI.

PRESENT:

Shri E. Krishna Murti,
Central Government Industrial Tribunal,
29th July, 1959.

I. D. No. 8 of 1959

BETWEEN

The employers in relation to M/s Bikaner Gypsums Ltd.

AND

Their Workmen.

Dr. Anand Parkash—for the management.

Shri Jai Chand Lal Nabatta—for the workmen.

AWARD.

By G.O. No. S.O. LR II-64(14)/58-I, dated the 15th January, 1959, the industrial dispute, between the employers in relation to Messrs Bikaner Gypsums Limited, and their workmen, has been referred to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947.

2. The terms of reference are as follows:—

(1) Whether the termination of the services of Sarvshri Noora (Chowkidar), Nathu (Mazdoor) and Narsi Ram (Mazdoor) is justified, and, if not, to what relief they are entitled?

(2) Whether Sarvshri Chuni Lal, Yaqub Khan Tell, Sugna Meghwal, Kana, Bhura, and Hakoo Tell were working in the mines as village piece workers immediately before 1st October 1952, and, if so, whether the management is justified in refusing them employment as village piece workers after the said date, and, if not, to what relief they are entitled?

(3) Whether the termination of services of Sarvshri Abdul (Driver) 'B' Om Parkash (Acting Clerk), and Narpal Singh (Sampler) is justified, and, if not, to what relief they are entitled?

3. It is alleged in the statement of claim filed by the Gypsum Mine Workers Union, Jamsar, that the services of the various workmen, about whom the reference has been made, were terminated by the management unlawfully, and without justification, and that they should be re-instated in service, together with back wages.

4. The contention on behalf of the management is, that the case, as put-forward on behalf of the Union, is not true, and that the workmen are not entitled to the reliefs, as claimed.

5. Both parties are agreed, that the issues are as in the terms of reference.

Issue No. 1.

6. This is a dispute between the employers in relation to Messrs Bikaner Gypsums Ltd. and their workmen, the said dispute having been taken up by the Gypsums Mine Worker's Union, Jamsar.

7. Both parties have dispensed with oral evidence, (*vide* memo. dated 24th July 1959) and they have contended themselves by relying upon documentary evidence.

8. The first issue raises the question about the termination of service of three workmen, Sarvshri (i) Noora (Chowkidar) (ii) Nathu (Mazdoor) and, (iii) Narsil Ram (Mazdoor).

Shri Noora (Chowkidar).

9. According to the case of the Union, Shri Noora was a Chowkidar, who was working in the Company from the year 1952. He was served with a notice on 4th August 1958, informing him, that, due to restrictions on export of Selenite out of Rajasthan, the Lunkaransar Mines had to be closed down, and that the Chowkidar's services were terminated with effect from 4th September 1958. The Chowkidar sent a letter on 11th August 1958, protesting against the notice. The Company sent another letter dated 28th August 1958, refusing to accede to his request. An application was sent by Shri Noora on 1st September 1958 to the Resident Manager, pointing out, that his services could not be terminated, as there were many juniors working, and that the action of the management was in contravention of Section 25J of the Industrial Disputes Act. The notice of termination was extended by a month, and Shri Noora was working in the Night Shift. However on 3rd October 1958 he was informed, that his services were no longer required from 4th October 1958. Therefore he did not report himself for duty on 4th October 1958. Thus the case of the Union, is that the management unlawfully retrenched Shri Noora, even though the work, that he was doing, still continues, that persons, who were junior to him, were retained, and that he should be re-instated in service, together with back wages.

10. The case of the management is, that, though they issued a notice on 4th August 1958, another notice was sent on 2nd September 1958 that the Mines would continue to produce Selenite for one month from 4th September 1958. On 4th September 1958 a notice was issued, intimating, that Shri Noora would be retained in service until further notice. But on 4th October 1958 Shri Noora was not found in his quarter. Shri Noora had joined the strike which had started on 1st October 1958. He instigated also the other workers to strike. A charge sheet was issued against him, and an enquiry was also held into his conduct. As Shri Noora had absented himself from work wilfully, the Company engaged Shri Kundan Lal, who was working as a Peon, to officiate as a Chowkidar. It is alleged by the management at page 4, of their written statement, that, even though the charge against Shri Noora are grave, the management were prepared to give him another chance, and that it was possible for the management to absorb Shri Noora, if he reported for duty. The management proposed to issue only a warning in respect of the charge against him. Thus, according to the management, there was no termination of service of Shri Noora, but he intentionally absented himself after joining the strike which commenced on 1st October 1958. Ext. M/1 is a notice that was put up on 4th August 1958, that, as the Government of Rajasthan had prohibited the export of Selenite, it was necessary to close down the undertaking on account of unavoidable circumstances, and that the services of the workers in the Lunkaransar Mines would be terminated with effect from one month after the date of the notice. The workmen were also offered compensation. Ext. M/2 is a letter of Shri Noora, addressed to the Resident Manager, protesting against the notice. Ext. M/3 is the explanation to the charge, issued to him in connection with the strike. An enquiry was held into his conduct, and Ext. M/4 is the record of enquiry. Ext. M/5 is the Enquiry Officer's report. It will however be seen, that no action was taken as a result of the enquiry. Ext. W/5 is a letter sent to the Resident Manager by Shri Noora, to the effect, that, as the management had expressed a desire to absorb him, if he reported for duty, in the written statement, he was reporting himself for duty, and that this was without prejudice to this case pending before the Tribunal. It is stated before me in the course of arguments by Dr. Anand Parkash, Advocate, for the management, that Shri Noora was taken back into service in accordance with this letter, and that he is in employment since then. It was further stated before me, that the management had not broken the continuity of service.

11. However, the contention on behalf of the Union is, that Shri Noora was only re-instated in accordance with his request in the letter dated 6th April 1959, and that he is entitled to recover back wages from 4th October 1958, the date when his services were wrongfully terminated up to 6th April 1959. I am unable to agree with this, contention. It is obvious from the material on record, that his services were not terminated at all. Even though notices were served about the closing down of the Mines at Lunkaransar, the management gave the notice, copy of which is Ext. M/1. This is dated 4th October 1958, and it is to the effect, that the several workmen mentioned therein, including Shri Noora would continue to be in employment until further notice. There was no termination of service of Shri Noora on the night of 3rd October 1958, or on 4th October 1958, as suggested on his behalf. It is however clear, that he did not work from 4th October 1958. This was due to his own default in joining the strikers, and participating in the strike. If he desisted from work, I fail to see how the management can be blamed. When he expressed his intention to return to work, he was permitted to resume work, and continuity of service was also given to him. I find, that the services of Shri Noora were not terminated at any time, that he wilfully absented himself from work with effect from 4th October 1958 till he rejoined in accordance with his letter, Ext. W/5, and that he is not entitled to recover back wages. It is however made clear, that he is entitled to continuity of service from 4th October 1958 to the period when he resumed employment in accordance with the letter Ext. W/5. He is not entitled to any further relief in this proceeding.

Shri Nathu (Mazdoor).

12. There is nothing mentioned in the claim statement about Shri Nathu. The contention on behalf of the management is, that he was only appointed for a temporary period, and that his services came automatically to an end on the expiry of that period. Ext. M/8 is a copy of the appointment letter, while employing Shri Nathu. It shows, that he was appointed as a temporary workman for the period from 20th September 1958 to 19th December 1958. Ext. M/9 dated 19th December 1958 is to the effect, that Shri Nathu Khan had been appointed temporarily for three months, effective 20th September 1958, that his services came to an end on 20th December 1958, and that he might settle his dues. I fail to see how Shri Nathu Khan can claim any relief in this proceeding, when he was only appointed on a temporary basis, and when his appointment automatically came to an end on the expiry of the period, for which he was appointed. The contention on behalf of the workman, that the definition of the term "permanent workman" as contained in the Standing Orders, Ext. M/14, applies to a workman like him, is untenable. On the contrary, the Standing Orders also contemplate the appointment of temporary personnel. I find, that Shri Nathu was only a temporary workman, who was appointed for a specific period of three months, and that his services automatically came to an end with the expiry of that period, and that he is not entitled to any relief.

Shri Narsi Ram (Mazdoor).

13. The case of Shri Narsi Ram is on the same footing as that of Shri Nathu. Ext. M/6 shows, that he was appointed for a period of three months from 19th September 1958 to 18th December 1958. Ext. M/7 dated 17th December 1958 is the letter, that was sent to Shri Narsi Ram, intimating, that he had been appointed temporarily for a period of three months, and that his services stood terminated at the end of the period, as they were no longer required. The same remarks, as apply to Shri Nathu, apply to Shri Narsi Ram also and he also is not entitled to re-instatement or to back wages, or to any other relief in this proceeding. I find as above on this issue.

Issue No. 2.

14. The question next is with reference to certain village piece workers, whose names are Messrs (i) Chuni Lal, (ii) Yaqub Khan Teli, (iii) Sugna Meghwal, (iv) Kana, (v) Bhura, and (vi) Hakoo Teli. According to the allegations in the claim statement, these village piece workers were working on quarries No. 8, 9 and 11 of the Company. They were being paid on piece work basis at the rate of Rs. 2/12 per ton for supplies to Sindri, and at Rs 3/- per ton for supplies to other concerns. The payment of wages was once in a fortnight. The workmen named above, took part in the legal and justified strike of October, 1958. When the strike was called off on 1st December 1958, these workers reported for duty, but were not allowed to resume their duty. The prayer is, that all these workmen should be re-instated as village piece workers, and that the Company should be directed to pay them back wages, at the rate of their average earnings, per day,

from 1st April 1958 to 31st September 1958 together, with such compensation, as may be payable to them.

15 The reply of the management is, that the village piece workers are not covered by the Standing Orders, that they come and go as they please, that no action is taken against them if they stop-away from work, that many of the village piece workers are engaged in agriculture, and that they do not do work at all during the harvesting season. It is further pleaded by the management, that among the village piece workers, whose names are shown in the order of reference, Shri Hakoo Teli was never a workman, who did work for the Company. With reference to Shri Kana, their contention is, that he also did not work as a village piece worker, and that he was never refused any work. With reference to the others, it is alleged, that they had been working whenever they resumed duty. It is contended, that none of the workmen is entitled to any back wages as claimed and that the workers, who participated in the strike, did not report for duty till long after the strike ended. It is alleged in the written statement, that some of them reported for work later, and that they have all been given employment whenever they resumed duty.

16. First taking the case of Shri Hakoo Teli, there is no satisfactory evidence to prove, that he was ever a village piece worker, or an employee of the Company. Shri Nahata, the learned counsel for the Union, admitted, that Shri Haku Teli was an associate of Shri Yaqub Khan Teli, and was not an independent village piece worker. Shri Hakoo Teli is not entitled to any relief in this proceeding.

17. With reference to the rest, Exts. M/10, 11, and 12 are produced as the Attendance Registers in connection with the days on which the village piece workers worked. Ext. M/13 contains details of the fortnights during which the several persons worked. These show, that workmen were working only at intervals, and according to their pleasure. They came and went as they pleased. There is no satisfactory evidence to prove, that they were ever denied work, whenever they resumed duty and reported for work. It is important to note, that back wages have been claimed by these workers only from 1st December 1958. It is not disputed, that they did take part in the strike, and did not work up to 1st December 1958. It seems to me, that the management took them back to work whenever they reported for duty, and that they were not refused employment at any time after 1st December 1958. So far as Shri Kana is concerned, Dr. Anand Parkash stated, that he too would be taken back to work whenever he reported himself for duty. I find on this issue, that Shri Hakoo Teli is not a village piece worker, and that he is not entitled to any relief. With reference to the rest of the village piece workers, I find, that the management never refused the work as complained on their behalf, that they were given work whenever they reported for duty, and they are not entitled to recover any arrears of wages, as claimed by them, from 1st December 1958, and that there is no question of re-instatement.

Issue No. 3

18. The question next is with reference to the alleged termination of service of certain other workmen, namely Messrs (i) Abdul (Driver 'B'), (ii) Om Parkash (Acting Clerk), and (iii) Narpat Singh (Sampler).

Shri Abdul (Driver 'B').

19. According to the Union, Shri Abdul was a Dumper Driver, and was an active worker of the Union, being a member of the Executive Committee. He was dismissed by the Company's letter dated 27th September 1958, which was delivered to him during the strike, which commenced on 1st October 1958. It is alleged by the Union, that the said termination of service is *mala fide*, and illegal, and against the principles of natural justice, that there was no proper enquiry, that there had been a perverse finding on the material on record, and that he should be re-instated together with compensation.

20. The case of the management is, that Shri Abdul was not a member of the Executive Committee. In any case, no such intimation was sent to the management. On 16/17th June 1958, he was guilty of slow down tactics. Due enquiry was held into his conduct, and he was found guilty of the charges, and, in view of his past record, he was dismissed from service. The management contend, that their action against him is not illegal or *mala fide*, but is proper and legal. The charge sheet against Shri Abdul is Ext. M/15 dated 18th June 1958. It is stated therein, that on 16th, during the Second Shift at quarry No. 2; he had deliberately slowed down work, and that on 17th also his performance was slow. Ext. M/6 is the explanation wherein he denied the charges levelled against him. Ext. M/17 is the record of enquiry into his conduct. Ext. M/18 is the Enquiry

Officer's report, and acting there under, the order of dismissal, Ext. M/19, was passed.

21. It will be seen, that the charge was initiated on the report of the quarry Foreman, as contained in Ext. M/20 dated 16th June 1958. The Enquiry Officer found, that there was no case against the workman with reference to the incident on the 17th, but that the charge against him with reference to the incident on the 16th was true. The workman has been proceeded against for the alleged slowing down of work on the 16th, and the charge against him for slowing down on the 17th has been dropped.

22. With reference to the incident on 16th June 1958 Shri Abdul did only 24 trips as follows:—

1 hour	3 trips
2 "	3 "
3 "	6 "
4 "	2 "
5 "	7 "
6 "	2 "
7 "	—
8 "	1 "
Total	24

The charge against the workman is, that he intentionally slowed down his work. It is in evidence, that he was working in the Second shift from 5 P.M. to 1-30 A.M. It is explained, that there was an interval of half an hour during the shift. It is urged on behalf of the management, that admittedly the Dumper Driver was able to do 7 trips during the 5th hour, that he ought to have given work of 56 trips, and that the fact, that he did only 24 trips, shows that he deliberately slowed down the work. According to the evidence of Shri Anand Kumar, Supervisor, who was on duty in the Second shift on the day in question, actually 45 to 50 trips could be done in 8 hours. It is in evidence, that 7 trips were done when a group of five officers was present at the spot. In my opinion the seven trips per hour were abnormal, and it may be taken, that the normal work, that could be done, was about 45/50 trips, other things being equal.

23. The contention however on behalf of Shri Abdul is, that on the day in question, he did not deliberately slow down work, but that the number of trips fell because of circumstances, for which he was not responsible. According to his evidence, he started from the workshop at about 5 P.M., and reached the spot about 5-20. Shri Uma Shankar Misra, a Shovel Operator, took 7 minutes to start the Shovel. In the first hour nearly half an hour was spent like this. In the second hour he had to say his prayers, and he was engaged in conversation with Shri Anand Kumar, Supervisor. In the third hour he did 6 trips. In the 4th hour, Shri Tulsi Singh, was working with him, went to the latrine, and absented himself for some time. Shri Uma Shankar, the Shovel Operator said, that he would not operate his shovel, that one dumper had stopped and the other was working, and he stopped the Shovel. The further evidence of Shri Abdul is, that both the workers were there when the Shovel was stopped. They put the Dumper under the Shovel, and waited for 15 minutes, but Shri Uma Shankar did not operate the Shovel. Thereupon they went to the Engineer, and reported the matter to him. Subsequently the officers came and he and Shri Tulsi Singh did 7 trips. His evidence is that he did not wilfully slow down the work. It is pleaded on behalf of the workman, that the number of trips depended also on certain other circumstances, including the condition of the road. It is admitted, that during the duty hours, Shri Abdul also took his food, and that sometime was also lost on account of this. In the report Ext. M/20, it is mentioned, that Dumper Driver, Shri Tulsi Singh and Shri Abdul, came with a complaint to the Mechanical Engineer, that the Shovel operator had stopped the Shovel, and was not giving any token to the Drivers. Paragraphs (a), (b), and (c) in Ext. M/20 relate to the alleged omission on the part of Shri Tulsi Singh Driver, to do his part of the work. In paragraph (d) it is alleged that both the Drivers, Messrs Tulsi Singh and Abdul sat idle from 8-15 to 8-45 P.M. and that both departed from the quarry without the Supervisors' permission. The number of Trips given by each workmen is mentioned therein. There is no doubt that in fact Shri Abdul along with Shri Tulsi Singh went and complained to the Engineer, that the Shovel Operator was not doing his part of the work, and had stopped the Shovel. Shri Datta was examined as a witness on behalf of the workman, and he deposed, that about 9 P.M. on 16th the Dumper Drivers, Messrs Abdul and Tulsi Singh, came to his bungalow and said that there was a dispute between themselves and Shri

Uma Shankar, Shovel Operator, who was not giving tokens and had stopped his shovel. He ordered the Drivers not to stop the work. At that time Shri Shayam Sundar, the Foreman of the Contractor, Inder Mohan & Co who was operating the contractor's Shovel, came there and said, that the Drivers were making 1 or 2 trips per hour. The evidence of Shri Uma Shankar, the Shovel Operator, is, that Shri Abdul performed only a few trips. Seeing Shri Guha, the Mechanical Foreman, the Drivers complained to him, that the road was bad. Shri Uma Shankar further stated that Shri Abdul was eating his food during duty hours, and was not working properly.

24. There is no doubt, that on the day in question the number of trips was less, but it was due to the fact, that Shri Tulsi Singh absented himself for answering calls of nature, and some time was lost by Shri Abdul while saying his prayers and taking his food. It has also got to be considered how far the friction between the Drivers and Shri Uma Shankar, the Shovel Operator contributed to the delay. There can be no doubt that he stopped operating the Shovel for some time. I may also refer to the evidence of Shri Barkat Ali, who was on duty on Quarry No. 2 in the Second Shift. His evidence shows, that Shri Abdul was engaged in prayers for some time, that Shri Tulsi Singh went to the latrine, and absented himself for about 12/13 minutes, and that thereupon Shri Uma Shankar said, that he would not operate the Shovel, in spite of both the Drivers requesting Shri Uma Shankar to operate his Shovel. The latter sent his Helper for making a report. Thereupon both Drivers went to Shri Datta for making their report. Food also came for the workmen and they took their food. Shri Barkat Ali states that Messrs Abdul, Tulsi Singh, and Uma Shankar were quarrelling. His further evidence is, that the Shovel was stopped first, and thereafter the Dumpers were stopped. Both the Drivers pleaded with Shri Uma Shankar for operating the Shovel for 15 minutes. On the evidence it is quite clear that the fact, that there was less number of trips on the day in question, is not due to slowing down of work wilfully. The workman Shri Abdul cannot be deemed to be guilty of misconduct. There is a basic error of fact in the finding arrived at by the management, that there was wilful default on the part of the workman and it cannot be accepted.

25. Again according to the evidence of the workman he had put in 7 years of service, and it is not likely that he would have jeopardised his tenure of service by adopting go slow tactics. For shortage in the number of trips on 16th July 1958, the punishment of dismissal is much too harsh and excessive. On a consideration of all circumstances I find, that there is no case made out for termination of service of the workman and that the order passed by the management against Shri Abdul cannot be sustained.

26. The question next is about the relief, to which he is entitled. I see no sufficient grounds for denying him the relief of re-instatement.

27. So far as back wages are concerned this is not a case for awarding the same. Admittedly Shri Abdul took some time off during duty hours, and this resulted in less out turn of work. He is not entitled to any back wages and this will be sufficient punishment even at the worst for any lapse from duty. I find accordingly.

Shri Narpat Singh (Sampler)

28. So far as this workman is concerned, Ext M/21 is the order of appointment dated 4th August 1958, intimating him, that he was appointed purely as a temporary measure for a period of two months from 4th August 1958. By Ext. M/22 dated 2nd October 1958 it is stated, that Shri Narpat Singh had been temporarily appointed for two months, and that his service would terminate effective 3rd October 1958, as his services were no longer required. This is also a case of purely temporary employment, which automatically came to an end at the expiry of the period for which he was appointed. There is no termination of service as such. The workman is not entitled to any relief.

Shri Om Parkash (Acting Clerk)

With reference to this workman, Ext. M/22 is the order of appointment, appointing him as a temporary worker from 12th February 1958 to 11th April 1958. Ext. M/24 is a letter dated 10th April 1958, allowing him three months extension. Ext M/25 dated 11th July 1958 shows, that another extension was given to him for three months. By Ext M/26 dated 11th October 1958 the Company informed Shri Om Parkash, that he was appointed only on a temporary basis, and that his appointment was terminated with effect from 12th October 1958. He was also asked to vacate his quarter. I fail to see how the management can be held to be at fault in terminating this workman's service in terms of his contract

By Ext. M/25 his services were extended for a period of three months with effect from 12th July 1958. They came to an end on 12th October 1958 unless extended further, and no objection can be taken to the action of the management in not extending his services further. However, on behalf of the Union, attention is drawn to the definition in the Standing Orders of a "probationer". It is argued, that this workman worked for more than 6 months, and that, therefore, he must be deemed to have been made permanent. The language of the Standing Orders does not support any such contention. Shri Om Parkash was not a probationer, but, on the contrary he was employed only on a temporary basis, and for a temporary period, which was specific. I find, that Shri Om Parkash is neither entitled to re-instatement nor to any other relief in this proceeding.

30. In the result, an award is passed as follows:—

I. Item No. 1 of the Reference

(i) Sarvashri Nathu and Narsi Ram are not entitled to any relief in this proceeding.

(ii) So far as Shri Noora is concerned, he shall be given continuity of service from 4th October 1958 to the date when he resumed employment in accordance with his letter, and he is not entitled to any further relief in this proceeding.

II. Item No. II of the Reference

(i) Shri Hakoo Teli was not a village piece worker, and he is not entitled to any relief.

(ii) So far as the others are concerned, the management did not refuse them employment, as alleged, and they are not entitled to recover any arrears of wages, as claimed by them, and that they are not entitled to any further relief in this proceeding.

III. Item No. III of the Reference

(i) The order of termination of service against Shri Abdul, Driver 'B' is set aside. The management shall re-instate him in service, and restore him to his old post of Driver on the same terms and conditions of service as before, within two weeks from the date when this award becomes enforceable, and the period between the date of termination of service and the date of re-instatement shall not operate as a break in continuity of service, but shall be treated as continuous service. The said Driver will not however be entitled to any back wages, or emoluments for the aforementioned period.

(ii) Sarvashri Narpal Singh and Om Parkash are not entitled to any relief in this proceeding.

IV. There will be no order as to costs.

(Sixteen pages)

29th July, 1959.

E. KRISHNA MURTI,
Central Government Industrial Tribunal,
Delhi.

[No. LR-II/64(14)/58-I.]

S.O. 1942.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to M/s Hindustan Manganese Mines Ltd., P.O. Tirodi, Balaghat (M.P.) and their workmen.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT BOMBAY**

Ref. No. (CGIT) 18 of 1959

In the matter of

M/s. Hindustan Manganese Mines Limited, P.O. Tirodi, Balaghat M.P.
AND

their workmen

The 14th day of August 1959.

PRESENT

Shri F. Jeejeebhoy, Presiding Officer.

APPEARANCES

For the Management—D. A. Shah, Advocate, High Court, Bombay.

For the Workmen—No appearance.

AWARD

By its Order dated 8th May, 1959 the Government of India in the Ministry of Labour and Employment referred to this Tribunal the industrial dispute between the employers Hindustan Manganese Mines Limited, P O Tirodi, Balaghat (M P) and their workmen in respect of the matters specified in the schedule to the Order.

On 21st May, 1959, notices were issued to the parties by which the workmen were required to file their statement of claim within two weeks of the receipt of the notice and the employers were to file their written statement two weeks thereafter. As the workmen had failed to file their statement of claim, a notice was issued on 22nd July, 1959 informing them that the reference was placed for orders before the Tribunal on 3rd August 1959 and was liable to be closed for want of prosecution.

On 3rd August, 1959, just before the case was called a telegram was received from the Secretary of the union asking for postponement and saying that he was posting a reply. A letter dated 1st August, 1959, was received from the union on 3rd August, 1959, praying "that the workmen concerned represented by the union be given a chance to defend their position before this Honourable Tribunal. The complaint is being posted under a separate registered cover."

Thereupon I made an order to await the receipt of the statement of claim and to put up the case again on 14th August 1959, a copy of this Order was communicated to the President of the Union by a letter from this office dated 3rd August, 1959.

The case has been accordingly called this morning, but there is no appearance on behalf of the union and no claim has been received from the workmen and they do not appear to be taking any interest in the proceedings. The Reference is therefore closed for want of prosecution, and an award is made accordingly.

Sd/ F JEEJEEBHoy, Presiding Officer

[No LR-II/62(24)/58]

PYARE LAL GUPTA, Under Secy.

New Delhi, the 29th August 1959

S.O. 1943.—In the notification of the Government of India, Ministry of Labour and Employment, No S O 1717, dated the 28th July, 1959, published at page 1906 of the Gazette of India Part II Section 3(ii), dated the 1st August, 1958, for "Shri A K Raghavan" against item (1) under the heading "Members representing the Dock Workers" read "Shri M K Raghavan"

[No Fac 180(3)]

S.O. 1944.—Whereas immediately before the Employees' Provident Funds Act, 1952 (19 of 1952), became applicable with effect from the 1st August, 1956, to the factories known as (i) the Western India Match Co Ltd, Ambarnath, District Thanna, Bombay, (ii) The Western India Match Co Ltd, P O Alambazar, Calcutta, (iii) The Western India Match Co Ltd, Tiruvttiyur, Madras-19, and (iv) The Western India Match Co Ltd, P O Clutterbuckganj, Bareilly (UP), there was in existence a provident fund common to the employees employed in the factories to which the said Act applies and the employees in their other establishments specified in the Schedule hereto annexed,

Now, therefore, in exercise of the powers conferred by section 3 of the said Act, the Central Government hereby directs that the provisions of that Act shall also apply to the aforesaid establishments

SCHEDULE

- 1 The Western India Co Ltd, Head Office Indian Mercantile Chambers, Nicol Road, Ballard Estate, Bombay-1
- 2 The Western India Match Co Ltd, Sales Office, Indian Mercantile Chambers, Nicol Road, Ballard Estate, Bombay-1
- 3 The Western India Match Co Ltd, Sales Office, Wellesley House, 7, Wellesley Place, Calcutta

4. The Western India Mutch Co. Ltd, Sales Office, 38-C, Mount Road, Madras-2.
5. The Western India Match Co. Ltd., Sales Office, P.O. Clutterbuckganj, Bareilly.

[No. PF.II-9(16)/58.]

S.O. 1945.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following further amendment in the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, the same having been previously published as required by the said sub-section, namely:—

Amendment

After the first proviso to sub-clause (1) of clause 9, the following proviso shall be inserted, namely:—

“Provided further that a dock worker who is temporarily medically unfit may be listed provisionally subject to the condition that—

- (i) the ailment leading to temporary unfitness is declared as being curable within a reasonable period;
- (ii) the period of provisional listing shall not exceed six months unless an extension is granted by the Board; and
- (iii) if after the period or extended period of provisional listing the worker is still found unfit, his listing shall not be renewed.

[No. Fac. 186(3)]

New Delhi, the 31st August 1959

S.O. 1946.—In pursuance of paragraph 4 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Labour No. SR.O. 1380 dated the 4th July, 1953, namely:—

In the said notification—(i) for entries (2), (6), (7) and (9), the following entries shall respectively be substituted, namely:—

“(2) Shri S. N. Pande, I.A.S., Labour Commissioner and Regional Provident Fund Commissioner, Bihar, Jamal Road, Patna”.

“(6) Shri S. B. Aihara, Personnel Manager, Imperial Tobacco Company of India Ltd., P.O. Basdeopur, Monghyr”.

“(7) Shri Brajkishore Shastri, Hind-Chini Mazdoor Federation, Praja Socialist Party Office, Nayatola, Patna-4”.

“(9) Shri R. L. Verma, Deputy President, Tata Workers Union, 17-K Road, Jamshedpur”.

(ii) the following entry shall be added at the end, namely:—

“(10) Shri M. John, President of Non-official member of the Central the Tata Workers' Union, Board of Trustees ordinarily resident in the State”.
17-K Road, Jamshedpur.

[No. PF.II-(5)/586.]

S.O. 1947.—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, the Central Government hereby appoints Shri D. P. Tripathi, Labour Commissioner as Regional Provident Fund Commissioner for the whole of the State of Orissa, vice Shri S. S. Parija. Shri D. P. Tripathi shall work under the general control and superintendence of the Central Commissioner.

[No. PF-I/31(559)59-I.]

S.O. 1948.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri D. P. Tripathi, Labour Commissioner and Regional Provident Fund Commissioner to be an Inspector for the whole of the State of Orissa for the purposes of the said Act and of any scheme framed thereunder, in relation to an establishment belonging to, or under the control of, the Central

Government or in relation to an establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry *vide* Shri S. S. Parija.

[No. PF./31(559)/59-II.]

S.O. 1949.—In exercise of the powers conferred by Sub-Section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri K. Parameswaran Nair, Regional Provident Fund Commissioner, to be an Inspector for the whole of the State of Kerala for the purposes of the said Act and of any scheme framed thereunder, in relation to an establishment belonging to, or under the control of, the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil field or a controlled industry *vice* Shri A. Kunjukrishna Pillai.

[No. PF-I/31(583)/59.]

S.O. 1950.—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, the Central Government hereby appoints Shri K. Parameswaran Nair as Regional Provident Fund Commissioner for the whole of the State of Kerala *vice* Shri A. Kunjukrishna Pillai. Shri K. Parameswaran Nair shall work under the general control and superintendence of the Central Commissioner.

[No. PF-I/31(583)/59.]

New Delhi, the 1st September 1959

S.O. 1951.—PWA/Mines/Rules/Am.—In exercise of the powers conferred by sub-sections (2) and (3) of section 26, read with section 24, of the Payment of Wages Act, 1936 (4 of 1936), the Central Government hereby makes the following further amendment to the Payment of Wages (Mines) Rules, 1956, the same having been previously published as required by sub-section (5) of the said section 26, namely:—

In the said Rules—

after rule 5, the following rule shall be inserted, namely:—

"5A. The register required to be maintained under the Mines Rules, 1955, in Form 'B' in the First Schedule to those rules shall be deemed to be required to be maintained under these rules also".

[No. Fac. 49(22)/58.]

S.O. 1952.—In exercise of the powers conferred by section 11 of the Indian Dock Labourers Act, 1934 (19 of 1934), the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Labour S.R.O. 219, dated the 12th January 1957, namely:—

In the said notification—

(a) in the opening paragraph—

(1) for the words "two years and six months" the words "five years and six months" shall be substituted and shall be deemed always to have been substituted;

(2) the words "and carrying a register of cargo gear issued by", shall be inserted between the words "vessels classified with" and "the American Bureau of Shipping"; and

(b) in clause (1)—

for the word "and" occurring after the figures "1948", the words "or is" shall be substituted.

[No. Fac. 38(102)/59.]

P. D. GAIHA, Under Secy.

ERRATUM

The S.O. No. of Ministry of Labour and Employment Notification No. MII-1(8)/59, dated 10th August, 1959, published in the Gazette of India Part II—Section 3(ii), dated 15th August, 1959, on page 1992, may be read as "1795" in place of "1785".

MINISTRY OF INFORMATION AND BROADCASTING

ORDER

New Delhi, the 31st August 1959

S.O. 1953.—The Central Government hereby:

- (a) directs, in pursuance of the provisions of the Order of the Government of India in the Ministry of Information & Broadcasting No. S.R.O. 3805 dated the 26th December, 1955 and in modification of the Order of the Government of India in the Ministry of Information and Broadcasting No. S.O. 1891 dated the 20th August, 1959 that the Advisory Panel of the Board of Film Censors at Bombay shall consist of 36 members with immediate effect; and
- (b) appoints Shri Samuel Mathai as a member of the Advisory Panel of the said Board at Bombay with immediate effect in exercise of the powers conferred by sub-rule (3) of rule 8 read with sub-rule (2) of rule 9 of the Cinematograph (Censorship) Rules, 1958.

[No. 11/1/59-FC.]

D. R. KHANNA, Under Secy.

